

EXHIBIT 2

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
3 CHARLESTON DIVISION

- - -

4 IN RE: ETHICON, INC. PELVIC : Master File No.
5 REPAIR SYSTEM PRODUCTS : 2:12-MD-02327
6 LIABILITY LITIGATION : MDL No. 2327

7 THIS DOCUMENT RELATES TO ALL : JOSEPH R.
8 WAVE 8 AND SUBSEQUENT WAVE : GOODWIN
9 CASES AND PLAINTIFFS : U.S. DISTRICT
10 : JUDGE

11 General TVT and TVT-O Matter

- - -

12 OCTOBER 9, 2018

- - -

13 Oral deposition of MILES
14 MURPHY, M.D., taken pursuant to notice,
15 was held at the law offices of Butler
16 Snow LLP, 500 Office Center Drive, Suite
17 400, Fort Washington, Pennsylvania 19034,
18 commencing at 10:02 a.m., on the above
19 date, before Amanda Dee Maslynsky-Miller,
20 a Certified Realtime Reporter and Notary
21 Public in and for the Commonwealth of
22 Pennsylvania.

- - -

23 GOLKOW TECHNOLOGIES, INC.
24 877.370.3377 ph| 917.591.5672 fax
 deps@golkow.com

Miles Murphy, M.D.

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22

23

24

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12 Murphy-10 Richard Ellerkmann,

13 General Reliance List in

14 to Addition to Materials

15 Referenced in Report 94

16 Murphy-11 Ahmet Bedestani General

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16 Murphy-2 Defendants' Objections and

17 Responses to Plaintiffs'

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23 Murphy-3A Held Open for Additional

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8 Murphy-17 3/6/06 Letter from Gene

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<p>1 - - -</p> <p>2 DEPOSITION SUPPORT INDEX</p> <p>3 - - -</p> <p>4</p> <p>5 Direction to Witness Not to Answer</p> <p>6 Page Line Page Line Page Line</p> <p>7 None</p> <p>8</p> <p>9</p> <p>10 Request for Production of Documents</p> <p>11 Page Line Page Line Page Line</p> <p>12 29 20</p> <p>13</p> <p>14</p> <p>15 Stipulations</p> <p>16 Page Line Page Line Page Line</p> <p>17 7 1</p> <p>18</p> <p>19</p> <p>20 Question Marked</p> <p>21 Page Line Page Line Page Line</p> <p>22 None</p> <p>23</p> <p>24</p>	<p>1 the one report I've issued, but --</p> <p>2 MS. GAYLE: Well, let's go</p> <p>3 off the record for one second.</p> <p>4 MR. SNELL: We can stay on</p> <p>5 the record just for clarification.</p> <p>6 So he did issue one report,</p> <p>7 but it's about the TVT and TVT-O</p> <p>8 products.</p> <p>9 MS. GAYLE: So he's not</p> <p>10 opining today about the PROLIFT®?</p> <p>11 MR. SNELL: Correct. He's</p> <p>12 already given a full-day</p> <p>13 deposition on that, more than a</p> <p>14 full day, it was like 12, 14</p> <p>15 hours.</p> <p>16 So today he's being put up</p> <p>17 on his TVT and TVT-O opinions</p> <p>18 served in his general report.</p> <p>19 MS. GAYLE: Can we go off</p> <p>20 the record for a moment? Because</p> <p>21 I was told something else, but</p> <p>22 that's okay. So let's go off the</p> <p>23 record.</p> <p>24 - - -</p>
Page 7	Page 9
<p>1 - - -</p> <p>2 (It is hereby stipulated and</p> <p>3 agreed by and between counsel that</p> <p>4 sealing, filing and certification</p> <p>5 are waived; and that all</p> <p>6 objections, except as to the form</p> <p>7 of the question, will be reserved</p> <p>8 until the time of trial.)</p> <p>9 - - -</p> <p>10 MILES MURPHY, M.D., after</p> <p>11 having been duly sworn, was</p> <p>12 examined and testified as follows:</p> <p>13 - - -</p> <p>14 EXAMINATION</p> <p>15 - - -</p> <p>16 BY MS. GAYLE:</p> <p>17 Q. Good morning, Dr. Murphy.</p> <p>18 My name is Ann Gayle. I'm with the law</p> <p>19 firm of Aylstock, Witkin, Kreis and</p> <p>20 Overholtz. I'm here to take your</p> <p>21 deposition today regarding the two</p> <p>22 general reports that you've issued.</p> <p>23 Do you understand that?</p> <p>24 A. I thought it was just about</p>	<p>1 (Whereupon, a brief recess</p> <p>2 was taken.)</p> <p>3 - - -</p> <p>4 MS. GAYLE: Thank you, Burt,</p> <p>5 for the courtesy of going off the</p> <p>6 record.</p> <p>7 MR. SNELL: Of course.</p> <p>8 MS. GAYLE: Burt and I</p> <p>9 cleared it up off the record. And</p> <p>10 the doctor is, in fact, here today</p> <p>11 for only the TVT and TVT-O report.</p> <p>12 BY MS. GAYLE:</p> <p>13 Q. So, Doctor, I understand</p> <p>14 that you've been deposed before; is that</p> <p>15 correct?</p> <p>16 A. Yes.</p> <p>17 Q. And so you're familiar with</p> <p>18 this process, correct?</p> <p>19 A. Yes.</p> <p>20 Q. And have you been deposed</p> <p>21 before as an expert?</p> <p>22 A. Yes, I have.</p> <p>23 Q. Yes.</p> <p>24 And so you understand that</p>

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<p style="text-align: right;">Page 10</p> <p>1 I'm here today to depose you as an expert 2 witness for your TVT and TVT-O product, 3 correct? 4 A. Correct. 5 Q. Doctor, there may be times 6 today where counsel and I may go back and 7 forth and make objections, or even say 8 the words "move to strike." 9 When that happens, sir, 10 there is nothing meant disrespectful to 11 you, it's just that we are doing our jobs 12 to preserve what we call the record. 13 Do you understand that? 14 A. I understand. 15 Q. And the court reporter is 16 here today taking the record down. And 17 it would help her if we don't talk over 18 each other and we let each other finish 19 our questions. 20 Do you understand that? 21 A. I do. 22 Q. Also, do you understand that 23 she would require a verbal answer. So 24 instead of shaking your head or</p>	<p style="text-align: right;">Page 12</p> <p>1 estimate that you have been deposed as an 2 expert for Ethicon? 3 A. I believe twice. 4 Q. And what products were 5 those, sir? 6 A. One was for the PROLIFT® and 7 the PROLIFT® +M and one was regarding my 8 role as a research consultant for the 9 company. 10 Q. And for the PROLIFT® and 11 PROLIFT® +M, do you remember what year 12 that was that you were deposed? 13 A. Not exactly. But I believe 14 it was some time around 2013. 15 Q. And for the research 16 consultant, what year was that? 17 A. Around maybe a year later. 18 Q. Sir, are you a fellowship 19 trained, board certified urogynecologist? 20 A. I am. 21 Q. And how long have you been 22 that? 23 A. I've been board certified in 24 urogynecology since, I believe, 2013, the</p>
<p style="text-align: right;">Page 11</p> <p>1 indicating, if you would, the best you 2 could, verbalize your answer, okay? 3 A. Yes. 4 Q. And unless your counsel 5 specifically instructs you, then if you 6 understand my question, then please try 7 to answer that. 8 If you don't understand the 9 question, we can either have it read back 10 to you by the court reporter, or we can 11 work through it to where we get to a 12 question that you understand and feel 13 like you can answer, okay? 14 A. Yes. 15 MR. SNELL: Just one 16 clarification, I'm not Dr. 17 Murphy's counsel. I am counsel to 18 Ethicon and Johnson & Johnson. 19 MS. GAYLE: Thank you. 20 BY MS. GAYLE: 21 Q. Doctor, would you please 22 state your name for the record? 23 A. Miles Murphy. 24 Q. And how many times would you</p>	<p style="text-align: right;">Page 13</p> <p>1 first time it was available. 2 Q. You understand today that 3 you're under oath and that you have to 4 tell the truth in response to every 5 question I ask today, correct? 6 A. Yes. 7 Q. Doctor, I'm handing you 8 what's been marked as -- what will be 9 marked as Exhibit Number 1, and I believe 10 that you have that in front of you? 11 - - - 12 (Whereupon, Exhibit 13 Murphy-1, Notice to Take 14 Deposition of Miles Murphy, MD, 15 was marked for identification.) 16 - - - 17 BY MS. GAYLE: 18 Q. This is the notice to take 19 the deposition of Miles Murphy. 20 A. Yes. 21 Q. And on Page -- on Page 6, 22 Doctor, there is an attachment, a 23 schedule. 24 A. Yes.</p>

<p style="text-align: right;">Page 14</p> <p>1 Q. And we have asked you to 2 bring certain items listed in that 3 schedule. 4 A. Yes. 5 Q. And, Doctor, I didn't 6 mention it earlier. But I note that your 7 phone just buzzed. If there's something 8 that you need to do today and need to 9 take a call or something, please 10 certainly just let us know, and we'll 11 take a break at whatever point you need 12 to do that, okay? 13 A. Thank you. I turned it off. 14 Q. So, Doctor, according to 15 Schedule A, did you bring any of the 16 items listed there? 17 Counsel for Ethicon had 18 handed me an updated CV prior to the 19 start of the deposition. 20 Other than that, what did 21 you bring? 22 A. I have some invoices for my 23 expert work. I do have a copy of my CV. 24 I have some communications and study</p>	<p style="text-align: right;">Page 16</p> <p>1 BY MS. GAYLE: 2 Q. So that's the extent of the 3 materials that you brought today? 4 A. Yes. 5 Oh, I'm sorry. I have a 6 thumb drive. 7 Q. That's what I was going to 8 ask you. 9 A. Yes. This has numerous 10 documents that have been provided to me, 11 plus a folder with all my own personal 12 documents that I used in preparation of 13 the report. 14 Q. And, Doctor, when you say it 15 has numerous documents that were provided 16 to you, who provided those documents to 17 you? 18 A. Mr. Snell and his 19 colleagues. 20 Q. And the folder that has 21 articles that you said were personal 22 articles, did you personally compile that 23 particular folder? 24 A. Yes.</p>
<p style="text-align: right;">Page 15</p> <p>1 agreements with Ethicon. And it's just 2 some -- and a copy of my report as well. 3 Q. Okay. And can I just see 4 those things, if you don't mind, just for 5 a quick look? 6 A. Sure. 7 MS. GAYLE: Burt, if you 8 have no objection, when we take a 9 break, we'll get some copies of 10 these so we can put them in the 11 record, okay? 12 MR. SNELL: Those are 13 copies, I think. 14 MS. GAYLE: For us to go 15 ahead and -- 16 MR. SNELL: Yeah, we should 17 mark those. 18 Is that okay? 19 THE WITNESS: That's fine. 20 MS. GAYLE: Okay. I'll just 21 put them right here for now, 22 Doctor. And when we get to them, 23 we'll talk about them in just a 24 minute.</p>	<p style="text-align: right;">Page 17</p> <p>1 Q. And with regard to that 2 folder, Doctor, when was the last time 3 that you placed articles in that folder? 4 A. It very well may have been 5 within the last two months or so; two or 6 three months. 7 Q. And were those articles 8 specifically only related to your TVT and 9 TVT-O opinions? 10 A. For the vast majority of 11 them. There may be one or two that are 12 related to just general mesh. 13 MS. GAYLE: We'll mark that 14 as Exhibit 1A. 15 I assume there's a password 16 on that? Or not? 17 MR. SNELL: I don't think 18 that there is. 19 Is there? 20 THE WITNESS: No, there's no 21 password. 22 MS. GAYLE: And we'll talk 23 about this later about how to take 24 custody and so forth.</p>

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<p style="text-align: right;">Page 18</p> <p>1 MR. SNELL: Why don't we go 2 ahead and do this. So generally, 3 you will take possession and 4 Golkow will copy it as is, meaning 5 electronically to electronically. 6 We definitely do not want 7 everything on that thumb drive 8 printed out. It is voluminous. 9 And, typically, your side 10 also asks for just an electronic 11 copy that has all the electronic 12 files. 13 MS. GAYLE: Sure. 14 MR. SNELL: And then if it 15 can be returned, either to my 16 attention or Dr. Murphy's -- 17 return it to my attention because 18 you have my address, and then I'll 19 make sure it gets back to Dr. 20 Murphy. 21 If that's acceptable to you? 22 MS. GAYLE: That's fine. 23 Last week we did it a little bit 24 different, Butler Snow wanted it</p>	<p style="text-align: right;">Page 20</p> <p>1 the defendants filed to the notice 2 of deposition. 3 BY MS. GAYLE: 4 Q. Doctor, have you seen this 5 document before today? 6 A. Not that I recall. 7 MR. SNELL: So what are we 8 marking -- 9 MS. GAYLE: That's 10 Exhibit-2. That's the objections, 11 yes. 12 BY MS. GAYLE: 13 Q. You said you brought some 14 invoices with you today. We see that we 15 have several invoices. 16 And we are going to mark all 17 of them as Exhibit-3 collectively. 18 - - - 19 (Whereupon, Exhibit 20 Murphy-3, Invoices, was marked for 21 identification.) 22 - - - 23 BY MS. GAYLE: 24 Q. Doctor, we have, like I</p>
<p style="text-align: right;">Page 19</p> <p>1 done different so we did it 2 differently. So that works for 3 me. 4 Is that okay with you, 5 Madame Court Reporter? 6 - - - 7 (Whereupon, Exhibit 8 Murphy-1A, Thumb drive with 9 Materials, was marked for 10 identification.) 11 - - - 12 MS. GAYLE: Exhibit-2. 13 - - - 14 (Whereupon, Exhibit 15 Murphy-2, Defendants' Objections 16 and Responses to Plaintiffs' 17 Notice to Take Deposition of Miles 18 Murphy, MD, was marked for 19 identification.) 20 - - - 21 MS. GAYLE: Just for the 22 completeness of the record, 23 Doctor, and for you, Burt, I'm 24 handing the doctor the objections</p>	<p style="text-align: right;">Page 21</p> <p>1 said, several invoices here, the first 2 dated April 19th of 2014. 3 And the caption is, Invoice 4 for Butler Snow, Ethicon expert witness 5 consultation on pelvic mesh litigation. 6 Then it has your name. Time spent from 7 March 21st, '13 to April 8, '14, working 8 as a consultant in the above-mentioned 9 matter was 43.75 hours at a rate of \$400. 10 Is that when you first 11 started your work on the Ethicon expert 12 witness work for this particular report? 13 A. I'd have to look to make 14 sure there aren't ones before then. But 15 that's about the right time. 16 Yes, these appear to be in 17 the order of time. So yes. 18 Q. And was that solely for the 19 TVT and TVT-O work, or was that for 20 multiple products for Ethicon? 21 A. So these invoices are for 22 the work that I do for the TVT/TVT-O 23 work. 24 Q. So any other work that you</p>

Miles Murphy, M.D.

<p style="text-align: right;">Page 22</p> <p>1 would do with Ethicon for other products 2 is not found here in these invoices, 3 correct? 4 A. Yes. Some of the time 5 period I may have been working on two 6 things at once. But the ones that are 7 here are -- if not completely, the vast 8 majority of the time spent on this 9 particular report. 10 Q. And, Doctor, as I understand 11 your prior testimony, you have worked 12 with Ethicon in various roles off and on 13 since about 2004; is that correct? 14 A. 2004, 2005. Probably closer 15 to 2005. 16 Q. And you also have previously 17 testified, back in the 2012 time frame, 18 that at that point you estimated that you 19 had earned approximately between \$80,000 20 to \$100,000 in various roles with 21 Ethicon. 22 Since that time frame, do 23 you estimate what you've earned to be 24 more than \$100,000?</p>	<p style="text-align: right;">Page 24</p> <p>1 Q. More than \$500,000? 2 A. No. 3 Q. And is that for all products 4 combined, or individual products? 5 A. I was giving you everything 6 combined. 7 Q. Everything combined, okay. 8 And so, Doctor, so these 9 invoices here today for the TVT and 10 TVT-O, we have a total, in April of 2014, 11 of 17,5; we have in December of 2014, it 12 looks like \$10,200; June of 2015, it 13 looks like \$6,750. And then in December 14 30th, 2017, \$5,125; and then it looks 15 like an invoice dated June 28th, \$18,000. 16 Is that correct? 17 A. Correct. 18 Q. Doctor, who prepared these 19 invoices? 20 A. I did. 21 Q. You prepared them 22 individually, Doctor? 23 A. Yes. 24 Q. So any exact similarities</p>
<p style="text-align: right;">Page 23</p> <p>1 A. From Ethicon specifically -- 2 Q. For your work -- 3 A. -- consultancy? 4 Q. -- related to Ethicon, 5 right. 6 A. Just so I can clarify, is 7 that work similar to what I testified to 8 earlier, or are you talking about legal 9 consultation? 10 Q. Let's just break it down. 11 So work that you've 12 testified to earlier, so how much have 13 you made since 2012? 14 A. So, essentially, I don't 15 think I've made any money from doing 16 actual consultation on medical services 17 with Gynecare since then. 18 Q. And what about expert work, 19 consultations? 20 A. Expert work, consultation, I 21 believe -- was the question was, was it 22 more than \$100,000? 23 Q. Yes. 24 A. I believe it has been, yes.</p>	<p style="text-align: right;">Page 25</p> <p>1 between any other expert's invoices would 2 be coincidence? 3 MR. SNELL: Objection to 4 form. 5 THE WITNESS: I guess so. I 6 have no idea what you're implying. 7 BY MS. GAYLE: 8 Q. Did you consult with any 9 other expert that might be working on 10 behalf of Ethicon in the format of your 11 invoices? 12 A. No. 13 Q. And, Doctor, there seems to 14 be some date gaps in here. For instance, 15 the December 30th invoice is from 16 November 18th, 2017 through December 17 30th, 2017. And then the next invoice 18 picks up March 26th of 2018, that would 19 be about a three-month gap there. 20 Is that just a period that 21 you were not doing any work for the TVT 22 and the TVT-O projects? 23 A. Correct. 24 Q. How did you keep track of</p>

<p style="text-align: right;">Page 26</p> <p>1 your hours when you were working on this, 2 Doctor?</p> <p>3 A. I wrote notes to myself. 4 Q. So handwritten notes? 5 A. Either that or e-mails to 6 myself. 7 Q. And it looks like also, 8 Doctor, that through the time that you're 9 billing these invoices your rate changed; 10 is that correct? 11 A. That's correct. 12 Q. Approximately when did your 13 rate change? 14 A. I believe it has changed 15 twice. Initially it was \$400 an hour. 16 Probably a couple of years ago, it went 17 to, I believe, \$500 an hour. And just 18 this summer I increased it to \$650 an 19 hour. 20 Q. When in the summer did you 21 increase it? 22 A. July 1. 23 Q. July 1, okay. 24 Doctor, starting on July 1</p>	<p style="text-align: right;">Page 28</p> <p>1 think in the last couple of days that 2 you've not billed for? 3 A. Probably around eight to ten 4 hours. 5 Q. So since July 1, adding both 6 of those up, approximately you think 7 you've spent about 20 hours for work that 8 you haven't billed for? 9 MR. SNELL: Objection. 10 Misstates the testimony. 11 THE WITNESS: No. Some of 12 it is -- I have billed for, up 13 until, I believe, August. But in 14 September and early October, I've 15 done additional work that I have 16 not billed for. 17 BY MS. GAYLE: 18 Q. Okay. So we do not have any 19 work that you billed for between June 20 28th and August. We don't have an 21 invoice here. 22 So what I'm getting at, 23 Doctor, is, do you have that invoice with 24 you today, or can you provide that</p>
<p style="text-align: right;">Page 27</p> <p>1 to the present date, October the 9th, 2 today, did you do any work on the TVT and 3 TVT-O report? 4 A. Yes. 5 Q. How much time, Doctor, do 6 you estimate that you have worked on 7 that? 8 A. Since that time, since July 9 1? 10 Q. Yes. 11 A. I would have to look at my 12 notes to give you an exact answer. But 13 probably somewhere around five to ten 14 hours. 15 Q. And you have not billed for 16 that -- 17 A. Excuse me. Can I clarify 18 that answer? 19 Q. Sure. 20 A. I have also done work, just 21 in the last couple of days, preparing for 22 this deposition that I have not billed 23 for. 24 Q. And how much time would you</p>	<p style="text-align: right;">Page 29</p> <p>1 invoice to us? 2 MR. SNELL: I will say, I 3 believe I have it. There might be 4 a problem insofar as Dr. Murphy 5 did case-specific reports on 6 different Wave 8 cases. So I 7 don't know if that invoice breaks 8 it out for his general TVT/TVT-O 9 as opposed to the different cases. 10 MS. GAYLE: If it doesn't, I 11 would ask that he break it out and 12 then you guys provide us the work 13 that was billed for this 14 particular report from July 1 to 15 the present. 16 So if that's a couple of 17 invoices or not, I would ask that 18 you guys supply that. 19 And we'll have a placeholder 20 at Exhibit-3A for those invoices 21 that we are requesting. 22 MR. SNELL: We'll see if we 23 can do it on a break. 24 But there are not multiple</p>

<p style="text-align: right;">Page 30</p> <p>1 invoices. The doctor testified 2 that there is one invoice. My 3 concern is that it's going to 4 include case-specific expert work. 5 But he is certainly free to 6 give you his best estimate, which 7 I think he has already done. 8 BY MS. GAYLE: 9 Q. Doctor, is there one invoice 10 since July 1, or is there two invoices? 11 A. I'm pretty sure there's just 12 one. 13 Q. Just one? 14 A. I will be creating another 15 one for this deposition and the prep for 16 that, but I have not generated that. 17 Q. When you do generate that 18 one, Doctor, if you could also provide 19 that one to us as well, both of those we 20 will mark at Exhibit-3A.] 21 A. Sure. 22 Q. We'll have a placeholder in 23 the meantime for both of those. All 24 right?</p>	<p style="text-align: right;">Page 32</p> <p>1 the typewriter? How did that process 2 work for you? 3 A. Sure. I'd be happy to tell 4 you that. 5 So it started about four 6 years ago, Mr. Snell asked me to prepare 7 the report. And at that time, I had a 8 large amount of scientific data, 9 articles -- you know, journal articles at 10 my -- at my convenience. And I, 11 essentially, started writing a report on 12 a computer. 13 I was also given 14 supplemental materials from Mr. Snell and 15 his associates. And I continued to 16 update it over the years. 17 Q. Did you dictate it to 18 yourself, or did you just sit down and 19 just write it when you had free time? 20 A. The latter. 21 MS. GAYLE: Now, Ms. Court 22 Reporter, as we discussed, 23 Exhibits 4 and 5 will be blank, 24 and we'll start with Exhibit-6.</p>
<p style="text-align: right;">Page 31</p> <p>1 A. Yes. 2 - - - 3 (Whereupon, Exhibit 4 Murphy-3A, Held Open for 5 Additional Invoices, was marked 6 for identification.) 7 - - - 8 BY MS. GAYLE: 9 Q. And that work, Doctor, just 10 so the record is clear, from July 1 to 11 the present, you've been billing at \$650 12 an hour; is that correct? 13 A. Correct. 14 Q. And you've not been paid for 15 that work since July 1st; is that 16 correct? 17 A. To the best of my knowledge, 18 I have not. 19 Q. Doctor, did you write your 20 TVT/TVT-O report yourself? 21 A. Yes. 22 Q. Can you explain to me the 23 process whereby you did that? Did you 24 put pen to paper? Did you sit down at</p>	<p style="text-align: right;">Page 33</p> <p>1 - - - 2 (Whereupon, Exhibit 3 Murphy-6, Miles Murphy, General 4 Reliance List in Addition to 5 Materials Referenced in Report, 6 was marked for identification.) 7 - - - 8 BY MS. GAYLE: 9 Q. Doctor, I was given, with 10 your report, what is listed as your 11 general reliance list in addition to 12 materials referenced in your report. 13 Did you bring a copy of that 14 with you today, Doctor? 15 A. Yes, I did. 16 Q. Feel free to refer to it if 17 that would make you feel better. 18 And, Doctor, is this the 19 general reliance list that was served in 20 conjunction with your TVT-O report? 21 A. Yes. 22 MS. GAYLE: We're going to 23 mark your report as Exhibit Number 24 7.</p>

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1 - - -

2 (Whereupon, Exhibit

3 Murphy-7, General Report of Miles

4 Murphy, MD, MSPH, FACOG, was

5 marked for identification.)

6 - - -

7 BY MS. GAYLE:

8 Q. That's your report, Doctor.

9 I'd like to ask you a couple

10 of questions about your sources and the

11 materials that you relied on, Doctor.

12 That's what we'll be focusing on here.

13 MR. SNELL: Can we just give

14 him a second to look at Exhibit-7

15 and make sure it's --

16 MS. GAYLE: Sure. Go ahead.

17 THE WITNESS: Okay.

18 BY MS. GAYLE:

19 Q. Okay, Doctor, so we have

20 Exhibit-7, which is your TVT/TVT-O

21 report; is that correct?

22 A. Yes.

23 Q. And at Exhibit-6 we have the

24 reliance list that accompanied that

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1 report as well, correct?

2 A. Correct.

3 Q. Doctor, for Exhibit-7, your

4 report, how did you decide to combine

5 your TVT and your TVT-O products into

6 that report?

7 A. That was at the request of

8 Mr. Snell.

9 Q. And does this report contain

10 each of the opinions that you've reached

11 regarding TVT and TVT-O?

12 A. Yes.

13 Q. Sometimes, Doctor, I might

14 refer to TVT and TVT-O as the SUI

15 products or the SUI report. I'm talking

16 about Exhibit-7, if I happen to do that.

17 Can we agree that you

18 would -- do you have any objections to

19 that or any -- you would understand it if

20 I'm referring to that, correct?

21 A. That's fine, yes.

22 Q. Okay. In Exhibit-7, did you

23 discuss the facts that you felt were most

24 important in drawing your opinions?

Page 36

1 A. Yes.

2 Q. Doctor, on Page --

3 throughout your report, you summarize

4 different opinions and conclusions. For

5 instance, at Page 49, you have your

6 summary or your conclusions for that

7 particular section in bold.

8 Is that how you formulated

9 this report, by making your conclusory

10 summary statements at the end of each

11 section?

12 MR. SNELL: Objection to

13 form.

14 Go ahead.

15 THE WITNESS: I believe most

16 of the major sections ended with a

17 summary of my conclusions, yes.

18 BY MS. GAYLE:

19 Q. And is that why that

20 material would be in bold there?

21 A. Yes.

22 Q. And, again, Doctor, if you

23 would look to Page 62. And that, again,

24 looks like a summary of your conclusions

Page 37

1 for the TVT-O data.

2 Again, that would be

3 summarizing that particular section,

4 correct?

5 MR. SNELL: Objection to

6 form.

7 Go ahead.

8 THE WITNESS: Right. Right.

9 This is a summary of my

10 conclusions regarding the

11 comparative data on TVT-O.

12 BY MS. GAYLE:

13 Q. Doctor, if you look at your

14 Exhibit Number 7, beginning at Page 72,

15 you'll find the word "bibliography" on

16 Page 72.

17 A. I see it.

18 Q. Doctor, it looks like that

19 that bibliography runs through Page 87;

20 is that correct?

21 A. Yes, that looks right. Let

22 me just verify.

23 Yes.

24 Q. And, Doctor, can you tell me

<p style="text-align: right;">Page 38</p> <p>1 what this bibliography represents?</p> <p>2 A. Sure. It represents all of</p> <p>3 the articles, the scientific articles,</p> <p>4 that I referenced in my report directly.</p> <p>5 Q. And, Doctor, how does that</p> <p>6 bibliography differ or is the same as the</p> <p>7 articles and materials found at</p> <p>8 Exhibit-6?</p> <p>9 A. There may be overlap in</p> <p>10 them. But mostly the difference is that</p> <p>11 the articles within my bibliography were</p> <p>12 specifically referred to in my report,</p> <p>13 whereas the additional materials involves</p> <p>14 other things such as company documents</p> <p>15 and potentially other studies that I did</p> <p>16 not specifically refer to in my report.</p> <p>17 Q. Doctor, if you referred to</p> <p>18 any clinical data, would that be found in</p> <p>19 your bibliography?</p> <p>20 MR. SNELL: Objection.</p> <p>21 BY MS. GAYLE:</p> <p>22 Q. Did you refer to any</p> <p>23 clinical data in your TVT or TVT-O</p> <p>24 report?</p>	<p style="text-align: right;">Page 40</p> <p>1 supplemented your report a couple of</p> <p>2 times.</p> <p>3 And so what I'm trying to</p> <p>4 get at is, if any additional clinical</p> <p>5 data that you had relied on since your</p> <p>6 initial drafting of this report, would</p> <p>7 you have updated your bibliography to</p> <p>8 reflect that information as well?</p> <p>9 A. If I specifically referred</p> <p>10 to it, I would have. There certainly</p> <p>11 could be articles out there that formed</p> <p>12 my opinions that I didn't specifically</p> <p>13 refer to that are not in my bibliography.</p> <p>14 But anything that I</p> <p>15 specifically referenced in my report is</p> <p>16 in my bibliography.</p> <p>17 Q. And, Doctor, did you prepare</p> <p>18 this bibliography yourself?</p> <p>19 A. I did.</p> <p>20 Q. And did you prepare it more</p> <p>21 recently or was it like your report, a</p> <p>22 product that you prepared over time?</p> <p>23 A. I added to it as I added to</p> <p>24 my report. That's why it's not</p>
<p style="text-align: right;">Page 39</p> <p>1 A. I did.</p> <p>2 Q. And would that be in your</p> <p>3 bibliography?</p> <p>4 A. Yes.</p> <p>5 MR. SNELL: Sorry, counsel,</p> <p>6 I didn't understand the question.</p> <p>7 I must have totally missed it.</p> <p>8 BY MS. GAYLE:</p> <p>9 Q. To the extent that clinical</p> <p>10 or medical data is published someplace</p> <p>11 and you relied on it to some extent in</p> <p>12 forming your opinions, it would also be</p> <p>13 listed in your bibliography; would it?</p> <p>14 A. I'm sorry, are you saying if</p> <p>15 there are articles that may support what</p> <p>16 I said in my -- in my report -- I'm</p> <p>17 sorry, could you repeat the question?</p> <p>18 Q. Sure.</p> <p>19 So you said that you have --</p> <p>20 your bibliography contains any clinical</p> <p>21 data that you may have relied on in</p> <p>22 forming your opinions, correct?</p> <p>23 A. Yes, yes.</p> <p>24 Q. Apparently, you've</p>	<p style="text-align: right;">Page 41</p> <p>1 specifically in exact order.</p> <p>2 Q. Doctor, did you prepare the</p> <p>3 information found at Exhibit-6?</p> <p>4 A. No.</p> <p>5 Q. Who prepared this</p> <p>6 information, Doctor?</p> <p>7 A. Butler Snow.</p> <p>8 Q. And for the information</p> <p>9 found at Exhibit-6 that was prepared by</p> <p>10 Butler Snow, is this a list of the</p> <p>11 materials that they provided you?</p> <p>12 A. Yes.</p> <p>13 Q. And, Doctor, have you</p> <p>14 reviewed everything listed in Exhibit-6?</p> <p>15 A. Yes.</p> <p>16 Q. And how long did that take</p> <p>17 you, Doctor, as far as hours?</p> <p>18 A. It's been a process over</p> <p>19 four years, so I couldn't put an hour</p> <p>20 unit on it.</p> <p>21 Q. We talked about that just a</p> <p>22 little bit ago, about when you first</p> <p>23 started work with Butler Snow.</p> <p>24 And just to clarify the</p>

Miles Murphy, M.D.

<p style="text-align: right;">Page 42</p> <p>1 record, when did you first start working 2 on the TVT and TVT-O report? 3 MR. SNELL: Objection. 4 Asked and answered. 5 THE WITNESS: I believe 6 about four years ago. 7 BY MS. GAYLE: 8 Q. Four years ago. 9 Doctor, if you would look 10 towards the end of Exhibit-6, there is a 11 page entitled, Company Witness 12 Depositions. It's about five or six 13 pages from the end. 14 A. I see it. 15 Q. It appears to be a list of 16 the company witness depositions that you 17 have reviewed, correct? 18 A. Yes. 19 Q. And is that a list that you 20 reviewed over the years, Doctor? 21 A. Yes. 22 Q. Did you view any of the 23 videos that accompanied these 24 depositions?</p>	<p style="text-align: right;">Page 44</p> <p>1 mark it as Exhibit Number 21. We'll come 2 back to the other exhibit numbers. 3 - - - 4 (Whereupon, Exhibit 5 Murphy-21, Miles Murphy, 6 Supplemental General Materials 7 List in Addition to Materials 8 Referenced in Report, was marked 9 for identification.) 10 - - - 11 MS. GAYLE: This will be the 12 updated materials list, we can 13 mark it as 21A, if you wish. 14 - - - 15 (Whereupon, Exhibit 16 Murphy-21A, Updated Materials 17 List, was marked for 18 identification.) 19 - - - 20 BY MS. GAYLE: 21 Q. Doctor, we recently received 22 Exhibit-21 and Exhibit-21A. And I 23 apologize, I only have one copy there. 24 Between the exhibit we were</p>
<p style="text-align: right;">Page 43</p> <p>1 A. If I did, it would have only 2 been as part of the trial. 3 Q. And which trial are you 4 referring to, Doctor? 5 A. The one in Atlantic City in 6 2013, 2014. I'm sorry, I'm not great on 7 these exact dates. 8 Q. That's okay. 9 Doctor, did anything -- in 10 these list of depositions, did anything 11 particularly stand out to you when you 12 were forming your opinions about the TVT 13 that sticks in your mind? 14 A. No. 15 Q. And did anything about these 16 particular depositions stand out to you 17 when you were forming your opinions about 18 the TVT-O? 19 A. No. 20 Q. Doctor, we were served with 21 a supplemental general materials list and 22 an updated materials list, which we're 23 going to mark -- I'm going to skip a 24 couple of numbers. So we're going to</p>	<p style="text-align: right;">Page 45</p> <p>1 just looking at, Exhibit-6, and 2 Exhibit-21, do you know what changes were 3 made? 4 A. I'm sorry, could you repeat 5 that question one more time? 6 Q. Sure. 7 Between Exhibit-6, which is 8 your original reliance list, and this 9 supplemental reliance list that we were 10 served this week, what changes were made? 11 A. There were just some 12 additional general materials added. 13 Q. And, again, you said that 14 Butler Snow had originally prepared 15 Exhibit Number 6. 16 Did Butler Snow prepare 17 Exhibit-21? 18 A. Yes. 19 Q. And were those additions 20 made by Butler Snow? 21 A. Yes. 22 Q. And, Doctor, Exhibit Number 23 21A, that looks slightly different, and 24 that looks like an updated list of</p>

<p style="text-align: right;">Page 46</p> <p>1 materials also.</p> <p>2 Did you prepare Exhibit-21A?</p> <p>3 A. I did not.</p> <p>4 Q. Do you know who prepared</p> <p>5 Exhibit-21A, Doctor?</p> <p>6 A. Butler Snow.</p> <p>7 Q. And, Doctor, if you look at</p> <p>8 Exhibit-21A, the top of the first page</p> <p>9 with substantive material on it, it lists</p> <p>10 several transcripts.</p> <p>11 Do you see that, Doctor?</p> <p>12 A. I do.</p> <p>13 Q. Doctor, there are not any</p> <p>14 dates on those transcripts.</p> <p>15 If those individuals had</p> <p>16 multiple depositions, just with the</p> <p>17 single notation right now of Axle Arnaud,</p> <p>18 for instance, deposition, transcript with</p> <p>19 exhibits, that doesn't indicate which</p> <p>20 deposition of Mr. Arnaud you read; is</p> <p>21 that correct?</p> <p>22 A. That's correct.</p> <p>23 Q. And is it fair to say,</p> <p>24 Doctor, that you don't have that</p>	<p style="text-align: right;">Page 48</p> <p>1 Q. What we're looking at, Dr.</p> <p>2 Murphy, is I want to sort of get the</p> <p>3 universe of the materials that you relied</p> <p>4 on to form your TVT and TVT-O opinions.</p> <p>5 That's what I'm doing here today, that's</p> <p>6 my job.</p> <p>7 A. Sure.</p> <p>8 Q. So we have several buckets,</p> <p>9 if you will, of materials that you have</p> <p>10 relied on.</p> <p>11 And so we have your</p> <p>12 bibliography, which is attached to your</p> <p>13 report, correct?</p> <p>14 A. Yes.</p> <p>15 Q. And then we have your</p> <p>16 general reliance list with materials that</p> <p>17 Butler Snow prepared, Exhibit-6, correct?</p> <p>18 A. Correct.</p> <p>19 Q. And then we see that we have</p> <p>20 another list that Butler Snow prepared,</p> <p>21 the supplemental list at Exhibit-21,</p> <p>22 correct?</p> <p>23 A. Correct.</p> <p>24 Q. And then we have the other</p>
<p style="text-align: right;">Page 47</p> <p>1 information memorized, correct?</p> <p>2 A. I do not.</p> <p>3 Q. And, Doctor, so we looked at</p> <p>4 a bibliography attached to your general</p> <p>5 report --</p> <p>6 MR. SNELL: Counsel, can I</p> <p>7 make a statement on the record on</p> <p>8 this?</p> <p>9 Exhibit-21A appears to be</p> <p>10 the updated materials list served</p> <p>11 by Butler Snow pertaining to Dr.</p> <p>12 Murphy with regard to the Gross</p> <p>13 New Jersey trial. It was my</p> <p>14 understanding that this was</p> <p>15 actually served with his original</p> <p>16 report in Wave 8.</p> <p>17 But perhaps they included it</p> <p>18 just to make double sure.</p> <p>19 MS. GAYLE: Okay.</p> <p>20 MR. SNELL: Just so that</p> <p>21 statement is in the record.</p> <p>22 Because I don't want Dr. Murphy</p> <p>23 being confused with that.</p> <p>24 BY MS. GAYLE:</p>	<p style="text-align: right;">Page 49</p> <p>1 materials, again, Butler Snow prepared</p> <p>2 it, Exhibit-21A, correct?</p> <p>3 A. Correct.</p> <p>4 Q. Doctor, are there any other</p> <p>5 materials that you relied upon in forming</p> <p>6 your opinions for the TVT and TVT-O that</p> <p>7 we have not gone over?</p> <p>8 MR. SNELL: I'm going to --</p> <p>9 object to the form as to asked and</p> <p>10 answered.</p> <p>11 Go ahead.</p> <p>12 THE WITNESS: Other than</p> <p>13 just my own clinical experience,</p> <p>14 my reading of the literature that</p> <p>15 I may not have specifically</p> <p>16 referenced, but just my general</p> <p>17 knowledge base as a pelvic surgeon</p> <p>18 doing this for 14 years.</p> <p>19 MR. SNELL: And let the</p> <p>20 record reflect that the doctor did</p> <p>21 earlier identify the thumb drive</p> <p>22 with the folder that he brought of</p> <p>23 materials responsive to your</p> <p>24 request.</p>

<p style="text-align: right;">Page 50</p> <p>1 MS. GAYLE: Thank you for 2 that. 3 MR. SNELL: That was my 4 objection. 5 MS. GAYLE: Thank you for 6 that, Burt. 7 BY MS. GAYLE: 8 Q. So also, Doctor, we have 9 some materials found on that thumb drive, 10 right? 11 A. Correct. 12 Q. And, Doctor, it would be 13 your understanding that those materials 14 that Butler Snow provided you on that 15 thumb drive would be the materials listed 16 in Exhibit-6, Exhibit-21 and Exhibit-21A; 17 is that correct? 18 A. There may be some things on 19 that thumb drive that are not in here; 20 but, yes, there's probably an overlap. 21 Q. Doctor, when you wrote your 22 report, as you've stated, you cited 23 certain articles, and those articles were 24 found in your bibliography.</p>	<p style="text-align: right;">Page 52</p> <p>1 to use every single article and have a 2 life and take care of patients and take 3 care of my family would be virtually 4 impossible. So I tried to cull it to the 5 most highest-level data that I could. 6 Q. Doctor, that level of data, 7 would you refer to that in your field as 8 Level 1 data? 9 A. Primarily. 10 Q. And, Doctor, some of the 11 larger trials, would that be something 12 along the lines of the Cochrane review? 13 A. So the Cochrane review is a 14 systematic review that includes 15 evaluation, meta-analysis of a lot of 16 randomized clinical trials. So the thing 17 that makes up the systematic review is 18 the individual Level 1 evidence. 19 Q. Doctor, in Exhibit-21A, we 20 have a listing of expert reports that you 21 reviewed. 22 Do you see that, Doctor? 23 A. I do. 24 Q. And, Doctor, do you know if</p>
<p style="text-align: right;">Page 51</p> <p>1 What decisions went into 2 your opinions when you decided to cite a 3 certain article? 4 MR. SNELL: Objection. 5 Vague. Overbroad. 6 BY MS. GAYLE: 7 Q. Do you understand me, 8 Doctor? 9 A. I think so. 10 Q. Sure. 11 A. I can try to answer as best 12 as I can. 13 Q. Sure. 14 A. So I tried to rely on the 15 highest forms of evidence, which in this 16 field would be randomized clinical 17 trials, long-term studies of the device, 18 comparative studies that may not be 19 randomized, and just large trials in 20 general or large series in general. 21 Those tend to be the highest level of 22 evidence. 23 So there's so much data on 24 TVT and TVT-O that it would be -- for me</p>	<p style="text-align: right;">Page 53</p> <p>1 those were general reports or 2 case-specific reports? 3 A. I couldn't tell you which 4 were which, just looking at this list 5 today. 6 Q. And, Doctor, looking at that 7 list, can you tell me which of those 8 experts you read in relation to Wave 8 9 general experts? 10 A. So I believe, as Mr. Snell 11 pointed out, that some of this may be 12 from older work, since it's -- there's a 13 number of references that include 14 prolapse repair. And, for instance, 15 there's an expert report from Ann Weber, 16 and I know she was involved in the 17 prolapse mesh use. 18 So some of this may be 19 pertinent to my TVT and TVT-O report, 20 some of it may not. 21 Q. Doctor, have you relied on 22 any expert reports that plaintiffs' 23 experts may have issued in forming your 24 opinions for the TVT-O?</p>

<p style="text-align: right;">Page 54</p> <p>1 A. So when I'm forming my 2 opinions, many sources come into what 3 form my opinions. There may have been 4 something in some of these reports that 5 may have possibly, you know, made a small 6 impact.</p> <p>7 But I don't think there's 8 probably anything in any of these reports 9 that I specifically relied upon in 10 drawing my conclusions.</p> <p>11 Q. And would that be the same 12 answer for your TVT opinions as well?</p> <p>13 I asked TVT-O initially. So 14 would that be the same answer for TVT?</p> <p>15 A. Yes.</p> <p>16 Q. And, Doctor, in connection 17 with your general work for Wave 8, do you 18 have a listing of any of the reports that 19 you've read specifically?</p> <p>20 We talked about how that 21 looks like an older list that is in 22 connection with other litigation. I just 23 was trying to get to if that's listed 24 anywhere else in these materials.</p>	<p style="text-align: right;">Page 56</p> <p>1 MS. GAYLE: I think it was, 2 too. But going forward, I wanted 3 him to be clear so that that way 4 we can just sort of -- I only have 5 four hours here, so I didn't want 6 to be bogged down by any 7 case-specific questions or 8 analysis that you might think.</p> <p>9 THE WITNESS: Just so I can 10 clarify, some of the expert 11 reports that I did review in the 12 specific cases were general 13 reports.</p> <p>14 MS. GAYLE: And that's fine, 15 Doctor. So I'm just going to be 16 asking you about those general 17 expert reports that you reviewed 18 in connection with this wave. So 19 not the individual case specifics. 20 So we're not getting into any 21 details about any one particular 22 patient or plaintiff today, okay?</p> <p>23 THE WITNESS: Okay.</p> <p>24 BY MS. GAYLE:</p>
<p style="text-align: right;">Page 55</p> <p>1 A. So in my work for Butler 2 Snow, I have been a case-specific expert 3 for a number of Wave 8 cases. I believe 4 none of them were -- well, let me 5 rephrase that.</p> <p>6 I reviewed some expert 7 reports specifically from the plaintiffs' 8 side, and they may not be included in 9 this list. None of them did I rely upon, 10 in any important way, to form my opinions 11 regarding this report.</p> <p>12 Q. And, Doctor, just so you're 13 clear and the record is clear, today 14 we're only getting to your general TVT 15 and TVT-O opinions.</p> <p>16 So I'm not asking in regards 17 to any case-specific work or any 18 case-specific expert reports that you 19 have made in connection with Wave 8, 20 okay?</p> <p>21 A. Sure.</p> <p>22 MR. SNELL: I think his 23 answer was responsive, though, to 24 your question.</p>	<p style="text-align: right;">Page 57</p> <p>1 Q. So, Doctor, with regard to 2 those general expert reports that you 3 read, do you recall who you read?</p> <p>4 A. Not off the top of my head. 5 Sorry.</p> <p>6 Q. Did any one particular 7 expert's opinions stand out that you 8 disagreed with?</p> <p>9 A. Not in -- not in particular.</p> <p>10 Q. Of the experts that you 11 read, Doctor, do you know any of the 12 plaintiff experts personally?</p> <p>13 A. In the Wave 8? No.</p> <p>14 Q. In the Wave 8 general 15 reports that you've reviewed.</p> <p>16 A. Not that I -- I do not 17 believe so.</p> <p>18 Q. Doctor, this report is dated 19 August 2018; is that correct?</p> <p>20 Page 71, I believe, Doctor.</p> <p>21 A. Yes. August 11, 2018.</p> <p>22 Q. And, Doctor, on that day 23 when you signed there, did that -- this 24 report represent all the opinions that</p>

<p style="text-align: right;">Page 58</p> <p>1 you had formed regarding the TVT and the 2 TVT-O up until that point? 3 A. Yes, I think that's a fair 4 assessment of it. 5 Q. And, Doctor, since the 6 signing of this report, have you formed 7 any other opinions that may not be 8 included in this report, since August of 9 2018? 10 A. So since then I have 11 reviewed some additional articles, 12 specifically on ABBREVO® and EXACT®, 13 which I don't think we're talking about 14 today. None of those changed my general 15 opinions, but I did review some of those 16 since signing this report on August 11th. 17 Q. Doctor, are you aware of how 18 many documents have been produced, and 19 we're talking about the volume of 20 documents, in the litigation by Ethicon 21 and Johnson & Johnson to the plaintiffs? 22 A. I have a general 23 understanding that it's quite extensive. 24 Q. And, Doctor, do you have any</p>	<p style="text-align: right;">Page 60</p> <p>1 Q. So you've never asked 2 someone, hey, I want to know what you 3 produced to the plaintiffs so I can see 4 that list and decide if I need anything 5 from that list; is that fair? 6 A. Again, since I said it was 7 quite extensive, my educated guess is 8 there's no way I could weed through all 9 of that material, if I did ask for that, 10 and still work and take care of patients. 11 Q. Doctor, one of the things 12 that you're intending to do is to offer 13 opinions ultimately in a courtroom to a 14 jury that's going to decide issues in 15 this case; is that fair? 16 A. Yes. 17 Q. One of the things that you 18 will want to do when you give those 19 opinions is to have all of the necessary 20 background information so that when you 21 give those opinions, you can feel 22 confident that they are supported by the 23 actual facts; would that be fair? 24 MR. SNELL: Objection to</p>
<p style="text-align: right;">Page 59</p> <p>1 idea about what percentage of documents 2 the materials listed in Exhibit-6 and 3 Exhibit-21 represent, that volume? 4 A. I do not. 5 Q. Have you ever asked anybody 6 how many documents were produced to the 7 plaintiffs? 8 A. For the whole mesh 9 litigation, for everything? 10 Q. For the Ethicon litigation. 11 A. I have not asked. 12 Q. Have you tried to gain an 13 understanding of what types of documents 14 have been produced in the Ethicon 15 litigation by Ethicon to plaintiffs? 16 A. Well, I think from the 17 references that have been supplied to me 18 by Mr. Snell and his firm, I have a 19 general idea that those probably 20 represent the type of documents that have 21 been supported -- excuse me, supplied. 22 But I don't, as I said, have 23 a complete understanding of exactly what 24 has been submitted.</p>	<p style="text-align: right;">Page 61</p> <p>1 form. 2 THE WITNESS: Sure. 3 BY MS. GAYLE: 4 Q. Doctor, did you work at 5 Ethicon? 6 A. I was never an employee of 7 Ethicon. 8 Q. So in terms of Ethicon's 9 actual conduct on a day-to-day basis, you 10 weren't there to witness that firsthand; 11 is that correct? 12 A. I was not there to witness 13 it. But I have reviewed internal company 14 documents. 15 Q. Do you know if you reviewed 16 internal e-mails from Ethicon? 17 I noticed that you didn't 18 have very many e-mails at all listed in 19 your materials. 20 MR. SNELL: I'll object to 21 the characterization. 22 Go ahead. 23 THE WITNESS: I have seen 24 e-mails from Ethicon.</p>

<p style="text-align: right;">Page 62</p> <p>1 BY MS. GAYLE:</p> <p>2 Q. Do you know whose e-mails</p> <p>3 you've seen?</p> <p>4 A. Just to clarify, again, are</p> <p>5 we talking specifically regarding</p> <p>6 TVT/TVT-O or about any mesh litigation?</p> <p>7 Q. TVT/TVT-O and their conduct</p> <p>8 in relation to those two products.</p> <p>9 A. Okay. Since I now know what</p> <p>10 we're talking about, can you please</p> <p>11 repeat the question?</p> <p>12 Q. Sure.</p> <p>13 Have you seen any e-mails</p> <p>14 with regard to TVT/TVT-O from Ethicon,</p> <p>15 internal e-mails?</p> <p>16 A. I believe that I've seen</p> <p>17 some. I can't, sitting here, tell you</p> <p>18 who sent them or what date. But I</p> <p>19 believe I have reviewed some, yes.</p> <p>20 Q. Would it be fair that you</p> <p>21 also can't say what volume of those</p> <p>22 e-mails you've seen?</p> <p>23 A. I would guess that it's a</p> <p>24 small percentage of all the e-mails ever</p>	<p style="text-align: right;">Page 64</p> <p>1 initially start consulting with Ethicon</p> <p>2 on in 2005?</p> <p>3 A. I believe around that time</p> <p>4 is when I started being faculty for some</p> <p>5 of the continuing medical education or</p> <p>6 professional education labs that they put</p> <p>7 on.</p> <p>8 Q. And was that for a variety</p> <p>9 of products, Doctor?</p> <p>10 A. Over time, yes. Probably</p> <p>11 initially it was with TVT-O and TVT. And</p> <p>12 then later with PROLIFT® and PROLIFT® +M.</p> <p>13 Q. Who recruited you to be a</p> <p>14 consultant in 2005?</p> <p>15 A. So the person at Ethicon who</p> <p>16 was in charge of professional education</p> <p>17 at that time, I believe, was Paul Parisi.</p> <p>18 Q. Do you know how to spell</p> <p>19 that last name, for the court reporter?</p> <p>20 A. I believe it's P-A-R-I-S-I.</p> <p>21 Q. Was he your initial contact</p> <p>22 at Ethicon with regard to that work?</p> <p>23 A. It's very hard for me to</p> <p>24 recall with sort of any certainty who may</p>
<p style="text-align: right;">Page 63</p> <p>1 sent by Ethicon employees.</p> <p>2 Q. And would it also be fair</p> <p>3 that you don't know what percentage it</p> <p>4 might be of the e-mails related to TVT or</p> <p>5 TVT-O?</p> <p>6 A. I would be happy to review</p> <p>7 any -- you know, go over any e-mails that</p> <p>8 you specifically are interested in. But,</p> <p>9 no, it would be hard to know what</p> <p>10 percentage.</p> <p>11 Q. Okay. Doctor, I'm just</p> <p>12 trying to get, again, to the universe of</p> <p>13 documents that you relied on in forming</p> <p>14 your opinions for the TVT and TVT-O.</p> <p>15 And you said you didn't work</p> <p>16 for Ethicon, Doctor.</p> <p>17 But you were a consultant;</p> <p>18 is that correct?</p> <p>19 A. That's correct.</p> <p>20 Q. And, Doctor, when did you</p> <p>21 become a consultant with Ethicon?</p> <p>22 A. I believe somewhere between</p> <p>23 2005 and 2006.</p> <p>24 Q. And what project did you</p>	<p style="text-align: right;">Page 65</p> <p>1 have first sent me an e-mail or talked to</p> <p>2 me at a meeting.</p> <p>3 But I do certainly recall</p> <p>4 working with Mr. Parisi early on.</p> <p>5 Q. And, Doctor, when you first</p> <p>6 started working with Mr. Parisi, do you</p> <p>7 recall sort of under what circumstances</p> <p>8 he had approached you to start working</p> <p>9 for Ethicon?</p> <p>10 A. I don't.</p> <p>11 Q. Do you recall anyone else</p> <p>12 over the years that you've worked with</p> <p>13 although at Ethicon regarding your</p> <p>14 consulting agreements?</p> <p>15 A. Again, are we specifically</p> <p>16 talking about TVT and TVT-O or all pelvic</p> <p>17 mesh products?</p> <p>18 Q. All pelvic mesh products,</p> <p>19 Doctor.</p> <p>20 A. I have worked doing research</p> <p>21 with Ethicon on the Prosima system, and</p> <p>22 Judy Gauld. I'm sorry, I could not spell</p> <p>23 her last name for you. I did some work</p> <p>24 for them in product validation with</p>

Miles Murphy, M.D.

<p style="text-align: right;">Page 66</p> <p>1 the -- I believe with the TVT-Secur. And 2 there may have been a gentleman named Dan 3 Smith, maybe, who was involved with that 4 project. 5 That's what -- those are the 6 few names that come to mind sitting here 7 today many years later. 8 Q. And you did some work with 9 PROLIFT®, is that correct, Doctor, with 10 Ethicon? 11 A. I did work as faculty for 12 professional education with PROLIFT® as 13 well, yes. 14 Q. And, Doctor, explain what 15 you mean by "professional education." 16 A. Certainly. This would 17 predominantly involve courses that would 18 take place, usually on a weekend, and 19 involved didactic lecturing to other 20 physicians in the field. And then 21 helping with cadaver labs in which we 22 helped the doctors learn how to implant 23 these devices. 24 Q. Doctor, are you familiar</p>	<p style="text-align: right;">Page 68</p> <p>1 Murphy-23, Clinical Study 2 Agreement - Ethicon Initiated, was 3 marked for identification.) 4 - - - 5 BY MS. GAYLE: 6 Q. You brought some clinical 7 study agreements -- you brought clinical 8 study agreements with you today, correct? 9 A. I did. 10 Q. And, Doctor, is this all one 11 agreement, or is this multiple 12 agreements? 13 A. It is an agreement; I 14 believe it's just one. I could be wrong 15 there. And it's also some e-mails 16 regarding that project. 17 Q. Doctor, I'm going to hand 18 you what's been marked as Murphy-23 and 19 have you look at it for a minute. 20 Then ask you to explain what 21 all this document comprises, okay? 22 A. Sure. 23 The first section is 24 entitled, Clinical Study Agreement,</p>
<p style="text-align: right;">Page 67</p> <p>1 with the phrase "key opinion leader"? 2 A. I am. 3 Q. And would you consider 4 yourself a key opinion leader for Ethicon 5 on these mesh products? 6 A. I consider that that is a 7 term that should be applied to someone, 8 not that someone should apply it to 9 themselves. I think it's a -- something 10 that generally would be the feeling of 11 the doctors that work in a field as to 12 whether or not someone is a key opinion 13 leader. 14 Ethicon may designate 15 someone that way, but I don't think they 16 are the best ones to choose that. 17 Q. Doctor, do you know whether 18 or not Ethicon designated you as a key 19 opinion leader? 20 A. I do not. 21 Q. And, Doctor, we're going to 22 mark what we have as Exhibit-23. 23 - - - 24 (Whereupon, Exhibit</p>	<p style="text-align: right;">Page 69</p> <p>1 Ethicon initiated. And it's an agreement 2 between Ethicon and Saint Luke's Hospital 3 of Bethlehem, Pennsylvania, which was a 4 hospital I did, and currently, work at. 5 And it's regarding the conduct of a study 6 on Prosima, I believe. 7 Let me verify that. 8 Yes. 9 Q. Do you know what year that 10 was, Doctor? 11 A. 2007. 12 The second document is a 13 research subject information and consent 14 form. It's the consent form that we 15 would have gone through with any patients 16 who were candidates to be in the study. 17 And if they decided to 18 partake in the study, they would 19 understand what was involved in the study 20 and would give their consent to be 21 involved in this prospective study. 22 The next document is an 23 itemized budget of the study. 24 The next document is an</p>

<p style="text-align: right;">Page 70</p> <p>1 e-mail from Colin Urquhart, 2 U-R-Q-U-H-A-R-T, who was the clinical 3 project manager for this study. 4 The next is another e-mail 5 from Mr. Urquhart regarding POP-Q 6 standardization for the study. POP-Q is 7 the way we measure pelvic support on 8 physical examination, pelvic examination. 9 The next is another e-mail, 10 from Mr. Urquhart again, I think along 11 the lines of the same topic. 12 The next is another e-mail 13 from Judy Gauld, who I referred to 14 earlier. And I can now tell you how to 15 spell her name, G-A-U-L-D. She was the 16 clinical research manager at the time, 17 and she was involved with the drafting of 18 the abstract regarding the Prosima study. 19 And then there's another 20 e-mail from Mr. Urquhart. 21 And, finally, an e-mail from 22 Melissa Day, who was the project manager 23 of worldwide customer quality for 24 Ethicon, Inc.</p>	<p style="text-align: right;">Page 72</p> <p>1 them, no. I have had them, but I haven't 2 collected them. 3 Q. You only had these materials 4 for 2018. So any other materials that 5 you've gotten over the years, did you 6 delete them? How did you store them? 7 Did you give them back? 8 I'm wondering what happened 9 to any materials from Ethicon that you've 10 previously had. 11 A. Right. So, yes, either 12 I've deleted them from my e-mail -- I get 13 a lot of e-mails, as I'm sure most people 14 do -- or if they were paper documents or 15 discs of -- things of that nature, I 16 simply don't have them anymore. 17 Q. Doctor, when you do your 18 work for Ethicon, your consulting work, 19 do you keep hardcopy files of that in 20 your office? 21 A. Can we clarify whether we're 22 talking about expert witness work or 23 clinical work? 24 Q. Both, Doctor.</p>
<p style="text-align: right;">Page 71</p> <p>1 Q. And, Doctor, how did you go 2 about selecting those materials to bring 3 today? 4 A. I had an old folder in my 5 e-mail account for the Prosima study. 6 Those were the documents in that. 7 Q. Did you have any other 8 documents, Doctor, with regard to TVT or 9 TVT-O? 10 A. I did not. 11 Q. So this Exhibit-23 would 12 represent all the documents that you had 13 with regard to Ethicon on your computer; 14 is that fair? 15 A. In 2018, correct. 16 Q. In 2018. 17 And you clarified by stating 18 the year. 19 Since you're been working 20 for Ethicon over the years, I would 21 assume that you've collected materials 22 over the years, is that fair, for your 23 work with Ethicon? 24 A. I haven't really collected</p>	<p style="text-align: right;">Page 73</p> <p>1 A. Okay. So the clinical work 2 ceased over five years ago, so I simply 3 don't have those documents anymore. 4 For the work I do as an 5 expert witness, yes, I have collected 6 those things, and those are the things 7 that I've produced today. 8 Q. And do you store those in a 9 hardcopy format or just electronically? 10 A. Mostly electronically. I 11 certainly have printed out articles. 12 Sometimes when I'm writing my report, 13 it's easier to have a paper copy of the 14 article I'm looking at as I'm typing at 15 my computer. 16 But I don't necessarily have 17 a good filing system for that. I wish I 18 did. 19 Q. And, Doctor, you have an 20 office at your practice locale; would 21 that be fair? 22 A. That would be fair. But 23 that's not where I do this work. 24 Q. Thank you for anticipating</p>

<p style="text-align: right;">Page 74</p> <p>1 that question, Doctor. 2 Where do you do this type of 3 work? 4 A. Mostly out of my private 5 home. 6 Q. And so you would have 7 materials at your private home and they 8 may be electronically stored there; is 9 that correct? 10 A. Again, the type of stuff 11 that I produced today, absolutely. 12 MR. SNELL: We've been going 13 for about an hour, do you want to 14 take a break, restroom break? 15 MS. GAYLE: Sure. Just a 16 quick break, that would be fine. 17 Going off the record. 18 - - - 19 (Whereupon, a brief recess 20 was taken.) 21 - - - 22 BY MS. GAYLE: 23 Q. Doctor, we've been over your 24 work for Ethicon.</p>	<p style="text-align: right;">Page 76</p> <p>1 Q. Doctor, you've also worked 2 for Boston Scientific; is that fair? 3 A. I've been a consultant for 4 Boston Scientific as well, yes. 5 Q. Since approximately 2005 or 6 2006, or earlier? 7 A. I believe way back in around 8 2005, 2006 I briefly did some consulting 9 work for them regarding a prepubic sling. 10 But then I did not work for 11 them -- work as a consultant for them for 12 many years after that. It was only in 13 the last few years. Again, I've been a 14 site, a clinical research site for their 15 522 Studies. 16 And I am also on an advisory 17 board for Boston Scientific currently. 18 Q. Are those 522 Studies 19 regarding transvaginal mesh products? 20 A. Yes. 21 Q. And you said you're on their 22 board. 23 Is that also in regards to 24 transvaginal mesh products?</p>
<p style="text-align: right;">Page 75</p> <p>1 As I understand your former 2 testimony, you've also been -- or worked 3 with AMS; is that fair? 4 A. That's correct. 5 Q. And what was your role with 6 AMS? 7 A. For AMS, I was involved in a 8 project in which we were looking to 9 create a medical device system to do a 10 sacrocolpopexy with a transvaginal 11 approach. 12 Q. Do you need to take that, 13 Doctor? 14 A. No. Sorry. 15 In addition to that, I 16 believe, if I'm not mistaken, I was going 17 to be a site for 522 Studies, which the 18 government had ordered for any prolapse, 19 transvaginal mesh prolapse systems that 20 wanted to remain on the market in the 21 United States. But then the company 22 dissolved. 23 Those are the main things 24 that I remember doing for AMS.</p>	<p style="text-align: right;">Page 77</p> <p>1 A. Excuse me, I don't think I 2 said a board. 3 Q. I'm sorry. 4 A. Senior advisory board, not 5 on the board of the company. 6 Q. Yes, yes. 7 A. It's simply a group of 8 physicians that they have asked to advise 9 them on all sorts of products, not just 10 transvaginal mesh products. 11 Q. Thank you, Doctor. 12 Have you also worked for 13 Coloplast? 14 A. I was a research site for 15 Coloplast in the non-Coloplast arm of one 16 of their 522 Studies as well. 17 Q. And, again, is that related 18 to transvaginal mesh products? 19 A. That was specifically in 20 regards to sling procedures, yes. 21 Q. Thank you, Doctor. 22 And lastly, Doctor, have you 23 worked for Bard? 24 A. I don't believe that I ever</p>

<p style="text-align: right;">Page 78</p> <p>1 worked for Bard.</p> <p>2 Q. If you previously testified</p> <p>3 that you worked -- that you were a</p> <p>4 research site for Bard regarding the</p> <p>5 AJUSTTM sling, does that refresh your</p> <p>6 recollection?</p> <p>7 A. It may, in that my -- my</p> <p>8 company -- my practice may have been.</p> <p>9 But I don't believe that I personally was</p> <p>10 a consultant or involved in that study.</p> <p>11 Q. Okay, thank you.</p> <p>12 Doctor, are there any other</p> <p>13 medical device companies that I haven't</p> <p>14 named that you've worked for?</p> <p>15 A. Not that I can recall.</p> <p>16 Q. And, Doctor, are there any</p> <p>17 other pharmaceutical companies that I</p> <p>18 haven't named that you may have worked</p> <p>19 for?</p> <p>20 A. Yes.</p> <p>21 Q. Can you name those, please?</p> <p>22 A. Yes.</p> <p>23 I believe the company itself</p> <p>24 is known as AMAG. And I apologize, I</p>	<p style="text-align: right;">Page 80</p> <p>1 payments that go to either the practice</p> <p>2 or the hospital that I work for.</p> <p>3 And so, generally, that's</p> <p>4 covering things like the research</p> <p>5 coordinator's time and things of that</p> <p>6 nature.</p> <p>7 Q. Doctor, do you also act as a</p> <p>8 peer reviewer for any medical journal?</p> <p>9 A. I do.</p> <p>10 Q. How long have you been doing</p> <p>11 that?</p> <p>12 A. Around 14 years.</p> <p>13 Q. And what journals do you</p> <p>14 currently review for?</p> <p>15 A. The American Journal of</p> <p>16 Obstetrics and Gynecology; the</p> <p>17 International Urogyn -- the International</p> <p>18 Journal of Urogynecology; a journal which</p> <p>19 is titled, Female Pelvic Medicine and</p> <p>20 Reconstructive Surgery. I also serve on</p> <p>21 the editorial board of that journal.</p> <p>22 And then there are numerous</p> <p>23 other smaller journals that I've done</p> <p>24 peer-review work for in the last couple</p>
<p style="text-align: right;">Page 79</p> <p>1 don't know what that stands for. They</p> <p>2 make a product called INTRAROSA®, which</p> <p>3 is a steroid vaginal insert for the</p> <p>4 treatment of dyspareunia in</p> <p>5 postmenopausal women.</p> <p>6 And I have also -- so I've</p> <p>7 given lectures on their product. I'm on</p> <p>8 the speaking board.</p> <p>9 I have been on the speaking</p> <p>10 board of another company, but that was</p> <p>11 many years ago. I can't recall the name</p> <p>12 of the company nor the exact product, but</p> <p>13 it was an overactive bladder medication.</p> <p>14 Q. And for all the companies</p> <p>15 that we've listed, have you been paid for</p> <p>16 your work in association with those</p> <p>17 companies?</p> <p>18 A. Yes.</p> <p>19 Q. And you were paid by those</p> <p>20 respective companies, correct?</p> <p>21 A. Correct.</p> <p>22 And just to clarify, that's</p> <p>23 not always specifically a payment to me.</p> <p>24 For instance, these research studies are</p>	<p style="text-align: right;">Page 81</p> <p>1 of years. They are listed on my CV.</p> <p>2 Q. And, Doctor, in connection</p> <p>3 with your peer-review journal activities,</p> <p>4 is it important for you that the authors</p> <p>5 of materials that are submitted to you</p> <p>6 for possible publication be forthright</p> <p>7 and honest in their research?</p> <p>8 A. Yes.</p> <p>9 Q. And, Doctor, just generally</p> <p>10 speaking, if you had found that an author</p> <p>11 had not been forthright or honest, and</p> <p>12 if, in your opinion, that was</p> <p>13 significant, would that be a cause for</p> <p>14 your concern?</p> <p>15 MR. SNELL: Objection to</p> <p>16 form. Improper hypothetical.</p> <p>17 Go ahead.</p> <p>18 THE WITNESS: It certainly</p> <p>19 could. And I would be happy to</p> <p>20 look at any specific examples that</p> <p>21 you have in mind.</p> <p>22 BY MS. GAYLE:</p> <p>23 Q. We're just speaking</p> <p>24 generally, Doctor.</p>

<p style="text-align: right;">Page 82</p> <p>1 That would be a cause for 2 your concern -- as you said, it certainly 3 could be a cause for your concern. 4 Doctor, why could that be a 5 cause for your concern? Would you 6 explain for the benefit of the jury, if 7 you -- you know, if we happen to read 8 this testimony later to them? 9 MR. SNELL: Object to form. 10 Speculation. 11 Go ahead. 12 THE WITNESS: Certainly, if 13 the court reporter could read back 14 the words that you said, because 15 they were varied. But I believe 16 it was along the lines of being 17 dishonest. So that would be 18 something -- if I could hear the 19 exact words -- it would be of 20 concern. 21 BY MS. GAYLE: 22 Q. Sure. And, Doctor, I'll 23 just rephrase the question for your 24 convenience.</p>	<p style="text-align: right;">Page 84</p> <p>1 articles, to be aware of those 2 disclosures. 3 BY MS. GAYLE: 4 Q. Generally, Doctor, would you 5 agree that the function of a peer 6 reviewer for a journal is to act as a 7 type of gatekeeper for the information 8 that is published in that particular 9 journal? 10 A. I think gatekeeper is kind 11 of a -- it's not, maybe, the key role. 12 I think the key role is to 13 identify the strengths and weaknesses of 14 the paper and the scientific validity of 15 it and the relevance of it, the 16 importance of it. 17 You can have a fantastic 18 study, but if it's not of interest to the 19 readership of the journal, even though 20 you may not have any critiques of the 21 actual study itself, you may not find 22 that it's an appropriate article to be 23 published in this particular journal. 24 Q. Doctor, have you published</p>
<p style="text-align: right;">Page 83</p> <p>1 You said it could be a cause 2 for concern if you had read something 3 where an author was not forthright or 4 honest in a particular piece of research. 5 And I just want you to 6 explain why that might be a concern to a 7 person that's a peer reviewer like 8 yourself. 9 MR. SNELL: Same objection. 10 Go ahead. 11 THE WITNESS: Sure. So I 12 believe that if someone is 13 falsifying information that 14 they're reporting, that would be 15 important for me to know, as a 16 peer-review journal reviewer. 17 I certainly think that in 18 this day and age, part of 19 submitting an article to a 20 peer-reviewed journal is also 21 presenting any disclosures that 22 one has, because there's always 23 sources of potential bias. And 24 it's important, when reading</p>	<p style="text-align: right;">Page 85</p> <p>1 in any peer-reviewed journals within the 2 last three years? 3 A. Yes. 4 Q. When was your most recent 5 publication, Doctor? 6 A. If we could look through my 7 CV, I could be very specific for you. 8 Q. Sure. 9 Would that be your updated 10 CV, Doctor, that they have provided 11 today? 12 A. Yes. 13 Q. We'll mark that in a little 14 bit as an exhibit. 15 A. I believe that this CV was 16 updated in August of 2018. 17 And if you would like, I can 18 read through -- 19 Q. That's okay, Doctor. I'm 20 just wondering, generally, when was your 21 last publication in a peer-reviewed 22 journal? 23 A. This year. 24 Q. And was that also on the</p>

<p style="text-align: right;">Page 86</p> <p>1 topic that we're talking about today, TVT 2 or TVT-O? 3 A. No, it was not. 4 Q. Doctor, have you published 5 on TVT or TVT-O? 6 A. I have. 7 Q. And when was that, Doctor? 8 A. The most recent one was in 9 2010. I was not the lead author, but I 10 was an author on an article entitled, 11 Risk Factors Leading to Midurethral Sling 12 Revision, a Multicenter Case Controlled 13 Study. 14 In addition to that, I was 15 the lead author on a paper in 2008 16 entitled, Incontinence Related Quality of 17 Life and Sexual Function Following 18 Tension-Free Vaginal Tape Versus the 19 "Inside Out" Tension-Free Vaginal Tape 20 Obturator. 21 I was a lead author on a 22 paper published in the Journal of 23 Obstetrics and Gynecology, in 2005, 24 entitled, Is the Cough Stress Test</p>	<p style="text-align: right;">Page 88</p> <p>1 published in any peer-reviewed 2 journals, yes. 3 MR. SNELL: Okay. 4 MS. GAYLE: Thank you. 5 BY MS. GAYLE: 6 Q. So, Doctor, we were provided 7 with a couple of CVs. And as we sort of 8 talked about in the beginning, one of 9 them was attached to your POP report, 10 which we're not here today to talk about, 11 PROLIFT®. And then the other CV was 12 attached to your TVT report. 13 And just for clarification, 14 I'm going to give you the CV that was 15 attached to your TVT report. And that's 16 going to be marked as Exhibit Number 9. 17 - - - 18 (Whereupon, Exhibit 19 Murphy-9, Curriculum Vitae, Miles 20 Murphy, MD, MSPH, FACOG, was 21 marked for identification.) 22 - - - 23 THE WITNESS: Did you want 24 to mark that first?</p>
<p style="text-align: right;">Page 87</p> <p>1 Necessary When Placing the Tension-Free 2 Vaginal Tape? 3 I was also the lead author 4 on a review article in the American 5 Journal of Medicine Sports, in 2003, 6 entitled, Evaluation Treatment of Female 7 Urinary Incontinence. 8 That was not specifically a 9 study just of TVT, but it included 10 discussion of that treatment within it. 11 I also was the lead author 12 on a paper entitled, Effect of Anesthesia 13 on Voiding Function Following 14 Tension-Free Vaginal Tape in Obstetrics 15 and Gynecology, in 2003. 16 I believe that is the extent 17 of my peer-reviewed articles specifically 18 regarding sling surgery and TVT. 19 Q. Thank you, Doctor. 20 MR. SNELL: Just so I'm 21 clear, was that last question 22 specific to just peer-reviewed 23 articles? 24 MS. GAYLE: That was</p>	<p style="text-align: right;">Page 89</p> <p>1 MS. GAYLE: We're going to 2 mark that in just a minute. 3 BY MS. GAYLE: 4 Q. So, Doctor, you said, with 5 regard to the exhibit that you just -- 6 the updated CV, we'll refer to it that 7 way, that it was updated in August; is 8 that correct? 9 A. Yes. 10 Q. And, Doctor, my question is, 11 just because there's so many CVs floating 12 around, I just wanted to make sure that 13 there were no other changes, other than 14 the update in August that you referred 15 to? 16 A. In regard to peer-reviewed 17 publications? 18 Q. In regard to whatever 19 changes you may have made on your resume. 20 So were they all the same 21 except with regard to the update that was 22 provided today? 23 MR. SNELL: Objection to 24 form.</p>

<p style="text-align: right;">Page 90</p> <p>1 THE WITNESS: I'm sorry, I'm</p> <p>2 not following your question.</p> <p>3 BY MS. GAYLE:</p> <p>4 Q. Sure.</p> <p>5 You had a CV attached to</p> <p>6 your POP report. You had a CV attached</p> <p>7 to your TVT report.</p> <p>8 A. Yes.</p> <p>9 Q. First question, are those</p> <p>10 identical?</p> <p>11 A. I doubt it.</p> <p>12 Q. And, secondly, the CV today</p> <p>13 that you have been given, is that just</p> <p>14 reflecting an update to your -- the CV</p> <p>15 that you keep for all your</p> <p>16 qualifications?</p> <p>17 A. Absolutely. So a CV is sort</p> <p>18 of a living document, you update it on a</p> <p>19 monthly basis.</p> <p>20 Q. Of course.</p> <p>21 A. So I sort of start with the</p> <p>22 base one, the one that I would have</p> <p>23 provided back for the POP expert report,</p> <p>24 and I've simply continued to add to it.</p>	<p style="text-align: right;">Page 92</p> <p>1 Society. And at that meeting, I was</p> <p>2 the -- it was a cadaver lab in which we</p> <p>3 had multiple cadavers and multiple</p> <p>4 physicians teaching different procedures</p> <p>5 to them; things like prolapse repair,</p> <p>6 things like fistula repair.</p> <p>7 The specific cadaver that I</p> <p>8 was at was specifically for midurethral</p> <p>9 sling placement. So it was related to</p> <p>10 the topic today, but it was not a</p> <p>11 lecture.</p> <p>12 Q. Do you know the approximate</p> <p>13 date of that, Doctor?</p> <p>14 A. It was about three weeks</p> <p>15 ago.</p> <p>16 Q. And, Doctor, just a couple</p> <p>17 of sort of cleanup questions before we</p> <p>18 move on to the next section of what we're</p> <p>19 going to talk about.</p> <p>20 Do you know a Dr. Richard</p> <p>21 Ellerkmann?</p> <p>22 A. That does not ring any</p> <p>23 bells.</p> <p>24 Q. So, Doctor, I'm going to</p>
<p style="text-align: right;">Page 91</p> <p>1 Q. And I'm just trying to make</p> <p>2 sure, Doctor, that we're on your most</p> <p>3 current CV as we talk about your</p> <p>4 qualifications today.</p> <p>5 And that would be the</p> <p>6 updated version; is that correct?</p> <p>7 A. The one that you have, as I</p> <p>8 said, I believe was updated in August of</p> <p>9 2018. I have given some lectures since</p> <p>10 then that I've added to that. I don't</p> <p>11 think there's any new peer-reviewed</p> <p>12 literature that I've published, certainly</p> <p>13 nothing specifically on TVT since then.</p> <p>14 Q. And the lectures that you've</p> <p>15 given that are not appearing on your</p> <p>16 updated CV, would those be relevant to</p> <p>17 anything that we're discussing here</p> <p>18 today?</p> <p>19 A. No.</p> <p>20 Let me rephrase that. The</p> <p>21 most recent lecture I gave was not</p> <p>22 relevant. But I did also act as a</p> <p>23 faculty member for a cadaver lab</p> <p>24 sponsored by the American Urogynecologic</p>	<p style="text-align: right;">Page 93</p> <p>1 hand you what has been marked as Exhibit</p> <p>2 Number 10.</p> <p>3 And as you said, you don't</p> <p>4 know Dr. Richard Ellerkmann. However, in</p> <p>5 preparing Dr. Ellerkmann's general</p> <p>6 reliance list to your general reliance</p> <p>7 list, found at Exhibit-6, there are quite</p> <p>8 a number of similarities, including</p> <p>9 typographical mistakes.</p> <p>10 As you testified before,</p> <p>11 Doctor, you didn't prepare your reliance</p> <p>12 list at Exhibit-6, correct?</p> <p>13 A. That's correct.</p> <p>14 Q. So you would not know why or</p> <p>15 be able to explain why there's</p> <p>16 similarities in -- with regard to the two</p> <p>17 reliance lists, including any</p> <p>18 typographical mistakes, correct?</p> <p>19 MR. SNELL: Objection to</p> <p>20 form.</p> <p>21 THE WITNESS: That's</p> <p>22 correct.</p> <p>23 And just so you know, I do</p> <p>24 know, I believe, a Mark</p>

<p style="text-align: right;">Page 94</p> <p>1 Ellerkmann. I don't know if 2 that's a middle name or anything 3 of that nature, but. 4 MS. GAYLE: You can hand me 5 that back, Doctor. I'll mark it 6 as Exhibit-10. 7 - - - 8 (Whereupon, Exhibit 9 Murphy-10, Richard Ellerkmann, 10 General Reliance List in to 11 Addition to Materials Referenced 12 in Report, was marked for 13 identification.) 14 - - - 15 BY MS. GAYLE: 16 Q. Doctor, I have a similar 17 question with regard to what will be 18 marked as Exhibit Number 11. 19 - - - 20 (Whereupon, Exhibit 21 Murphy-11, Ahmet Bedestani General 22 Reliance List in Addition to 23 Materials Referenced in Report, 24 was marked for identification.)</p>	<p style="text-align: right;">Page 96</p> <p>1 to more specifics. 2 Are you holding yourself out 3 as an expert in the field of engineering? 4 MR. SNELL: I'm going to 5 object to the form. Lacks 6 specification. 7 THE WITNESS: As it regards 8 to engineering the functional 9 properties of devices, I do feel 10 like I am an expert in that 11 regard. 12 BY MS. GAYLE: 13 Q. Have you ever been involved 14 in structuring or implementing a 15 design-controlled process for a medical 16 device from the medical company 17 perspective? 18 A. Yes. 19 MR. SNELL: Object to form. 20 Go ahead. 21 BY MS. GAYLE: 22 Q. And what device was that? 23 A. The TVT-Secur. 24 Q. TVT-Secur with Dan Smith; is</p>
<p style="text-align: right;">Page 95</p> <p>1 - - - 2 BY MS. GAYLE: 3 Q. Do you know a Dr. Ahmet 4 Bedestani? 5 A. I do not. 6 Q. And, Doctor, again, any 7 similarities between Dr. Bedestani's 8 general reliance list and the general 9 reliance list that is found at Exhibit-6, 10 you would not be able to explain that 11 because you did not prepare Exhibit-6, 12 correct? 13 A. That's correct. 14 Q. Doctor, turning to your role 15 in this litigation, you don't have an 16 engineering degree, do you? 17 A. I do not. 18 Q. Are you holding yourself out 19 in this litigation as an expert in the 20 field of engineering? 21 A. Engineering of -- that's a 22 very broad term. 23 Q. In the broadest sense, 24 Doctor. And then we'll sort of get down</p>	<p style="text-align: right;">Page 97</p> <p>1 that right? 2 A. That's my recollection. 3 Q. Doctor, do you know if the 4 TVT-Secur is still on the market? 5 A. It is not. 6 Q. Do you know why it has been 7 taken off the market? 8 A. I do not. I have some 9 ideas, but I was not involved in that 10 decision. 11 Q. Are you familiar with the 12 term "FMEA," failure modes and effect 13 analysis? 14 A. Not particularly. 15 Q. Are you familiar with the 16 term "DDSA," device design safety 17 assessment? 18 A. Yes, vaguely, in that I 19 could understand what that would mean. 20 Q. You would understand what 21 device design safety and assessment, 22 those words put together, would mean, 23 correct? 24 A. Correct.</p>

<p style="text-align: right;">Page 98</p> <p>1 Q. But you wouldn't -- strike 2 that. 3 Do you know what regulations 4 would consist of, or requirements would 5 consist, in the device design safety 6 assessment protocol? 7 MR. SNELL: I'm going to 8 object to foundation. You said 9 regulations that require DDSA, so 10 foundation. 11 MS. GAYLE: Strike my 12 question. And let me give him a 13 better question. 14 BY MS. GAYLE: 15 Q. So you said you understood 16 what that phrase meant. 17 Have you ever worked in any 18 area that that phrase might encompass? 19 A. I think so. 20 Q. And in what regard would you 21 think so? 22 A. Could you just repeat the 23 term one more time, not the -- not the 24 initials, the actual --</p>	<p style="text-align: right;">Page 100</p> <p>1 on the market or was already on the 2 market? 3 MR. SNELL: Object to form. 4 Go ahead. 5 THE WITNESS: Not that I 6 recall. 7 BY MS. GAYLE: 8 Q. Do you know what a clinical 9 expert report is? 10 A. I've seen in the review of 11 the materials that I have for this 12 litigation documents that sound like that 13 would be. 14 For instance, a physician 15 resource monograph, I believe it was 16 called, for the TVT; one of the authors 17 of which was my medical partner, Dr. 18 Lucente. 19 Q. And, Doctor, would it be 20 fair to say that Dr. Lucente would be 21 better versed to opine on the materials 22 in that document? 23 MR. SNELL: Object to form. 24 THE WITNESS: I don't know</p>
<p style="text-align: right;">Page 99</p> <p>1 Q. Device design safety 2 assessment. 3 A. Yes. So in product 4 validation, you're looking to make sure 5 that the system that has been employed, 6 the IFU, things of that nature, are going 7 to be applicable to use in the general 8 use by surgeons. 9 So you would want to make 10 sure that the device and its usage are 11 safe. 12 Q. And did you do any device 13 design safety assessments for any product 14 for Ethicon? 15 A. So, again, this may be a 16 very specific term that I'm not familiar 17 with it. But I think something like the 18 Prosima study that I was involved with 19 would have involved steps in that basic 20 process. 21 Q. Have you ever been involved 22 in authoring a clinical expert report, 23 within a medical device company, with 24 regard to a device that was going to be</p>	<p style="text-align: right;">Page 101</p> <p>1 if he would be better to opine on 2 it. He could certainly opine on 3 what he meant when he wrote 4 something. 5 But I certainly think I'm 6 just as good an expert in regards 7 to the topic that is contained 8 therein. 9 BY MS. GAYLE: 10 Q. Whereas he wrote it, Doctor, 11 and you reviewed it; is that correct? 12 A. I've read it, yes. 13 Q. Okay. Did you also read the 14 one -- you said you read the one for TVT; 15 is that correct? 16 A. Correct. 17 Q. Did you read the clinical 18 expert report for TVT-O? 19 A. I very likely did. Again, 20 if you look at the list of my materials, 21 they're extensive. So remembering 22 exactly which one I reviewed versus which 23 one I haven't is difficult sitting here 24 today. But if it's in my list of</p>

<p style="text-align: right;">Page 102</p> <p>1 materials, then I reviewed it.</p> <p>2 Q. And, Doctor, would it be</p> <p>3 fair to say, then, that you, sitting here</p> <p>4 today, don't recall who the clinical</p> <p>5 expert report author for the TVT-O might</p> <p>6 be?</p> <p>7 A. I wouldn't be surprised if</p> <p>8 the creator of the system was involved.</p> <p>9 But, no, I can't say I would</p> <p>10 know who the author was, no.</p> <p>11 Q. And when you say "the</p> <p>12 creator of the system," who would you be</p> <p>13 referring to?</p> <p>14 A. I'm sorry, are we talking</p> <p>15 about the TVT-O or the TVT ABBREVO® ?</p> <p>16 Q. The TVT-O, that's what</p> <p>17 you're opining about today, correct?</p> <p>18 A. Yes, yes.</p> <p>19 Actually, I can't recall</p> <p>20 right now.</p> <p>21 Q. Do you have any patents on</p> <p>22 medical devices, Doctor?</p> <p>23 A. I do not.</p> <p>24 Q. Are you holding yourself out</p>	<p style="text-align: right;">Page 104</p> <p>1 interact with the body.</p> <p>2 Q. Doctor, are you a</p> <p>3 pathologist?</p> <p>4 A. I have certainly reviewed</p> <p>5 lots of pathological slides and reports,</p> <p>6 and I did histology for two years in the</p> <p>7 urology research lab at the University of</p> <p>8 Pennsylvania and the Veterans</p> <p>9 Administration in Philadelphia.</p> <p>10 Q. Was that -- I'm just going</p> <p>11 to stop you right there.</p> <p>12 That histology, was that in</p> <p>13 relation to any transvaginal mesh</p> <p>14 products?</p> <p>15 A. It was in relation to</p> <p>16 urology research. So it would have, you</p> <p>17 know -- for instance, we had a model on</p> <p>18 obstruction of the urethra for rabbits.</p> <p>19 Now, that was really more for a model for</p> <p>20 benign prostatic hypertrophy. But it</p> <p>21 certainly could be applied to retention</p> <p>22 that would be involved with a sling.</p> <p>23 But I do not -- I have not</p> <p>24 done a residency in pathology.</p>
<p style="text-align: right;">Page 103</p> <p>1 as an expert in biomechanics?</p> <p>2 A. Yes.</p> <p>3 Q. What experience do you have</p> <p>4 in biomechanics?</p> <p>5 A. I have both the experience</p> <p>6 that I've learned through my formal</p> <p>7 education in medical school, as well as</p> <p>8 the work that I've continued to work on</p> <p>9 as an expert in the field of</p> <p>10 urogynecology, both from working with</p> <p>11 device companies and their review of the</p> <p>12 literature of these products.</p> <p>13 Q. You said the "formal</p> <p>14 education in medical school."</p> <p>15 Did you take biomechanics</p> <p>16 classes?</p> <p>17 A. Not particular -- not</p> <p>18 entitled biomechanics.</p> <p>19 Q. What particularly in your</p> <p>20 formal education lends you to think that</p> <p>21 you're an expert in biomechanics?</p> <p>22 A. Because I'm an expert in the</p> <p>23 biology of the human body and the way</p> <p>24 that the body works and how devices</p>	<p style="text-align: right;">Page 105</p> <p>1 Q. And, Doctor, you, as a</p> <p>2 urogynecologist, treat patients with</p> <p>3 complications from TVT and TVT-O; is that</p> <p>4 fair?</p> <p>5 A. Yes.</p> <p>6 Q. And, Doctor, have you -- in</p> <p>7 treating those patients, have you</p> <p>8 performed what might be termed a revision</p> <p>9 surgery, where you go in and you might</p> <p>10 operate on part of that mesh by either</p> <p>11 trimming it or removing it?</p> <p>12 A. Yes.</p> <p>13 Q. And, Doctor, when you did</p> <p>14 that, did you track what -- from a</p> <p>15 pathological standpoint to perform any</p> <p>16 sort of histology analysis, did you track</p> <p>17 those samples that you might have removed</p> <p>18 from a patient?</p> <p>19 A. In some cases, yes; in some</p> <p>20 cases, no.</p> <p>21 Q. So can you explain that,</p> <p>22 Doctor?</p> <p>23 A. So, in general, when you are</p> <p>24 performing a procedure for voiding</p>

<p style="text-align: right;">Page 106</p> <p>1 dysfunction or urinary retention after a 2 sling, generally in that situation, 3 cutting the sling perpendicular to its 4 axis is usually adequate to relieve that 5 obstruction. You don't actually need to 6 remove a portion of the sling. 7 I have certainly, in other 8 cases, removed portions of sling for 9 things like exposure in the vagina. 10 Sometimes, specifically at the request of 11 the attorneys that some of the patients 12 have retained, they've asked that it 13 specifically be sent for pathologic 14 evaluation. So I certainly would have 15 reviewed any of those evaluations. 16 At other times, especially 17 if an attorney is not involved, I feel 18 that it's not a great use of medical 19 dollars to send a piece of mesh there to 20 the pathology to say explanted mesh. So 21 I don't always send that to the pathology 22 department. 23 Q. Do you know who Shelby 24 Thames is?</p>	<p style="text-align: right;">Page 108</p> <p>1 removed. 2 In other words, what I'm 3 trying to get at is, have you done a 4 formal study regarding transvaginal mesh 5 in your patients? 6 MR. SNELL: Object to form. 7 Go ahead. 8 THE WITNESS: So all the 9 studies that I've conducted are in 10 my CV. I do not -- since medical 11 school, I've never looked at a 12 microscope of anything that I've 13 removed from a patient. 14 BY MS. GAYLE: 15 Q. And, I'm sorry, Doctor, I 16 have to go through these. It's just sort 17 of a formality. 18 Doctor, are you holding 19 yourself out as an expert in the Food and 20 Drug Administration's medical device 21 labeling regulations? 22 A. Yes, I am. 23 Q. And, Doctor, do you have any 24 formal FDA regulation training and</p>
<p style="text-align: right;">Page 107</p> <p>1 A. The name rings a bell, but I 2 couldn't tell you specifically who she 3 is. 4 Q. And in connection with my 5 question regarding whether or not you're 6 holding yourself out as an expert in 7 pathology in this litigation, have you 8 performed any sort of large histological 9 review of tissue samples taken out of 10 patients? 11 A. I've reviewed -- 12 MR. SNELL: Object to form. 13 Go ahead. 14 THE WITNESS: I've reviewed 15 many articles on the pathology and 16 the histology of samples reviewed. 17 BY MS. GAYLE: 18 Q. I'm talking about the actual 19 slides, Doctor, that you might look at 20 under the microscope. 21 A. Have I looked at the slides 22 under a microscope myself? 23 Q. From a large selection of 24 those particular things you might have</p>	<p style="text-align: right;">Page 109</p> <p>1 knowledge, outside of what you've gotten 2 through the medical device company? 3 A. Yes. 4 Q. And what was that training, 5 Doctor? 6 A. That was -- it wasn't -- 7 excuse me. Just so I clarify. 8 There was sort of two parts 9 of that question. One was with whether 10 it was formal, and one was whether I 11 received any outside of a medical 12 company. 13 I've never had any formal 14 training, in that I can't point to a 15 class entitled, FDA regulation. But I 16 certainly have knowledge of it and 17 training in the sense that I've read lots 18 of articles and information on it, and 19 none of it -- well, maybe some of it has 20 been included in the references that they 21 provided to me. But other ones have 22 certainly been on my own time. 23 Q. Doctor, are you a biomedical 24 engineer?</p>

<p style="text-align: right;">Page 110</p> <p>1 A. I would, basically, going 2 back to the same type of answer, for the 3 sake of time, that I gave for 4 biomechanics. 5 Q. Biomechanics? 6 A. Yes. 7 Q. Thank you, Doctor. 8 And Doctor, do you hold a 9 degree in chemical engineering? 10 A. I do not. 11 Q. Doctor, do you hold a degree 12 in polymer chemistry? 13 A. I do not. 14 Q. Doctor, have you ever 15 performed any bench research on 16 polypropylene mesh? 17 A. I personally have not 18 performed bench research on polypropylene 19 mesh, no. 20 Q. And, Doctor, we talked about 21 a few of the articles that you had 22 published in peer-reviewed journals 23 earlier and you listed those out. 24 I understood that none of</p>	<p style="text-align: right;">Page 112</p> <p>1 MS. GAYLE: We'll break it 2 down. I said peer-reviewed 3 articles first. 4 MR. SNELL: Peer-reviewed 5 articles. 6 MS. GAYLE: And then we'll 7 break it down into any other 8 publications. 9 THE WITNESS: So, certainly, 10 the publications that I have 11 published in peer-reviewed 12 journals on polypropylene mesh 13 slings look at outcomes beyond the 14 day that they were placed. 15 So in that regard, if there 16 was degradation of those 17 materials, those outcomes would be 18 reflected in the findings that we 19 found. 20 BY MS. GAYLE: 21 Q. And I'm speaking solely from 22 a -- as you said, a microscopic pathology 23 sort of histology viewpoint. 24 So a more general view of</p>
<p style="text-align: right;">Page 111</p> <p>1 those articles related to polypropylene 2 mesh and degradation in the human body; 3 is that correct? 4 MR. SNELL: Did you say 5 based on his prior testimony? 6 MS. GAYLE: The articles 7 that he listed out that were TVT 8 and TVT-O -- I'll restate my 9 question, Doctor. 10 BY MS. GAYLE: 11 Q. Do you have any articles 12 that you've published with regard to TVT 13 or TVT-O that specifically discuss 14 degradation of polypropylene mesh in 15 those two products? 16 In other words, that article 17 would solely talk about that, not other 18 issues, but just the issue of 19 degradation. 20 MR. SNELL: And you're only 21 asking about peer-reviewed 22 articles? Or what about book 23 chapters? What exactly are you 24 asking?</p>	<p style="text-align: right;">Page 113</p> <p>1 that type of degradation where you've 2 looked at it under a microscope and 3 actually wrote up your analysis on what 4 you saw under a microscope? 5 A. Sure. 6 So your question implies 7 that the mesh degrades, which I take 8 issue with. 9 But, secondarily, no, I do 10 not -- I have not been an author on a 11 paper that specifically has within the 12 topic of it the degradation of mesh. 13 MS. GAYLE: And the court 14 reporter, can you mark this as 15 Exhibit Number 12? 16 - - - 17 (Whereupon, Exhibit 18 Murphy-12, Curriculum Vitae, 19 Miles Murphy, MD, MSPH, FACOG, was 20 marked for identification.) 21 - - - 22 MS. GAYLE: We talked about 23 this earlier, this is the updated 24 curriculum vitae of Dr. Murphy.</p>

<p style="text-align: right;">Page 114</p> <p>1 BY MS. GAYLE:</p> <p>2 Q. Doctor, you just said now in</p> <p>3 your answer that you take issue with</p> <p>4 degradation in polypropylene mesh.</p> <p>5 Can you explain why that is,</p> <p>6 why you take issue with that?</p> <p>7 A. I take issue with the</p> <p>8 implication that it's a -- the question</p> <p>9 suggested that it was a topic which is</p> <p>10 considered known or noncontroversial,</p> <p>11 that mesh degrades.</p> <p>12 And I take issue with that</p> <p>13 because there's lots of studies that show</p> <p>14 that it does not, that are specifically</p> <p>15 histologically based, pathologically</p> <p>16 based, electron microscopy based.</p> <p>17 I also have extensive</p> <p>18 personal experience with mesh long-term.</p> <p>19 I've been in practice in the same exact</p> <p>20 town for the last 14 years, so I sort of</p> <p>21 have firsthand knowledge of that.</p> <p>22 And then more</p> <p>23 scientifically, I'm very well versed in</p> <p>24 the literature regarding long-term</p>	<p style="text-align: right;">Page 116</p> <p>1 And then Page 63 of my</p> <p>2 report looks -- is entitled, TVT-O</p> <p>3 Long-Term Data. And that extends from</p> <p>4 Page 63 to 66. And the references that I</p> <p>5 include in that portion of my report are</p> <p>6 the long-term studies that I'm referring</p> <p>7 to.</p> <p>8 Q. And, Doctor, in those pages,</p> <p>9 which studies particularly are you</p> <p>10 referring to with regard to degradation?</p> <p>11 A. All of them.</p> <p>12 Q. All of them.</p> <p>13 And, Doctor, do you think</p> <p>14 that the issue of whether or not mesh</p> <p>15 degrades long-term is a settled issue?</p> <p>16 A. I think if it were, I</p> <p>17 wouldn't be sitting in this room. I</p> <p>18 think that the vast majority of people</p> <p>19 that practice in this field, actually</p> <p>20 take care of patients in this field, the</p> <p>21 vast, vast majority of them, I think it's</p> <p>22 a settled issue.</p> <p>23 But if that were -- if it</p> <p>24 were 100 percent across the board, I</p>
<p style="text-align: right;">Page 115</p> <p>1 studies of polypropylene mesh in the</p> <p>2 human body, which do not suggest any</p> <p>3 significant degradation of that material.</p> <p>4 Q. And off the top of your</p> <p>5 head, Doctor, with regard to the</p> <p>6 long-term studies, which one are you</p> <p>7 referring to?</p> <p>8 A. If we look at my report --</p> <p>9 and just so you know, I've added this, if</p> <p>10 you want to add this.</p> <p>11 Q. Okay.</p> <p>12 A. This is just a table of</p> <p>13 contents. I was not smart enough to put</p> <p>14 a table of contents in my original</p> <p>15 report, so I thought it would be helpful,</p> <p>16 to speed things along today, to have</p> <p>17 that.</p> <p>18 So if you look at Page 50 of</p> <p>19 my report, there is a long discussion --</p> <p>20 let's see, six pages -- looking at the</p> <p>21 long-term studies of TVT. So all the</p> <p>22 references within those pages, 55 to --</p> <p>23 excuse me, 50 to 55, I'm referring to</p> <p>24 those studies.</p>	<p style="text-align: right;">Page 117</p> <p>1 don't think I would be giving this</p> <p>2 deposition.</p> <p>3 Q. Doctor, since you started</p> <p>4 work as an expert witness in this</p> <p>5 litigation, when you're talking to your</p> <p>6 patients through an informed consent</p> <p>7 process, have you begun to include a</p> <p>8 conversation about potential degradation?</p> <p>9 A. So I certainly talk to my</p> <p>10 patients about long-term data; and in</p> <p>11 regards to certain topics, how sometimes</p> <p>12 there's more long-term data and other</p> <p>13 times there is not.</p> <p>14 In regards to degradation,</p> <p>15 it's a common question that my patients</p> <p>16 ask about. And I give them the most</p> <p>17 balanced answer that I can, as I do with</p> <p>18 everything that I discuss with my</p> <p>19 patients.</p> <p>20 Q. Doctor, I think you said</p> <p>21 earlier today that you had practiced</p> <p>22 approximately 14 years; is that correct?</p> <p>23 A. That's correct. That's</p> <p>24 following fellowship.</p>

<p style="text-align: right;">Page 118</p> <p>1 Q. Thank you.</p> <p>2 And, Doctor, in that 14-year</p> <p>3 period, would it be fair to say that the</p> <p>4 process of -- your process of informed</p> <p>5 consent in speaking with your patients</p> <p>6 has changed over time?</p> <p>7 A. I don't think the process</p> <p>8 has changed. I think the --</p> <p>9 Q. The substance, I'm sorry.</p> <p>10 Doctor, thank you.</p> <p>11 The substance of what you</p> <p>12 talk about to your patients has changed</p> <p>13 over time?</p> <p>14 MR. SNELL: Object.</p> <p>15 Overbroad.</p> <p>16 THE WITNESS: The contents</p> <p>17 have changed since I started, yes.</p> <p>18 BY MS. GAYLE:</p> <p>19 Q. Generally speaking, Doctor,</p> <p>20 would it be fair to say that medical</p> <p>21 science changes and evolves?</p> <p>22 A. Absolutely.</p> <p>23 Q. And as that medical science</p> <p>24 changes and evolves, Doctor, would it be</p>	<p style="text-align: right;">Page 120</p> <p>1 an IFU earlier.</p> <p>2 I take it you know what the</p> <p>3 letters "IFU" mean?</p> <p>4 A. I do.</p> <p>5 Q. And would that be</p> <p>6 instructions for use, Doctor?</p> <p>7 A. Yes.</p> <p>8 Q. And over time, would it be</p> <p>9 fair to say that the instructions for use</p> <p>10 for the TVT have changed through the</p> <p>11 years?</p> <p>12 A. I think that there have been</p> <p>13 a number of iterations of the IFU.</p> <p>14 Q. Thank you, Doctor.</p> <p>15 And would it also be fair to</p> <p>16 say that there have been a number of</p> <p>17 iterations of the TVT-O IFU over the</p> <p>18 years?</p> <p>19 A. I believe so.</p> <p>20 Q. And, Doctor, you implant the</p> <p>21 TVT; is that correct?</p> <p>22 A. Are you talking about</p> <p>23 currently?</p> <p>24 Q. Not currently, Doctor.</p>
<p style="text-align: right;">Page 119</p> <p>1 fair to say that you keep up, generally</p> <p>2 speaking, with those changes and</p> <p>3 evolutions in your field?</p> <p>4 A. I certainly try.</p> <p>5 Q. And, Doctor, when you're</p> <p>6 talking to your patients, you would want</p> <p>7 to try to convey a balanced approach to</p> <p>8 those changes and evolutions; is that</p> <p>9 fair also?</p> <p>10 A. Yes.</p> <p>11 Q. So, Doctor, as you've</p> <p>12 learned over time about an issue in this</p> <p>13 litigation that may not be settled, using</p> <p>14 your words, would it be fair to say that</p> <p>15 if a patient brought those up or wanted</p> <p>16 to discuss some of these unsettled</p> <p>17 issues, you would discuss those with your</p> <p>18 patient?</p> <p>19 MR. SNELL: Object to form.</p> <p>20 Misstates.</p> <p>21 Go ahead.</p> <p>22 THE WITNESS: Yes.</p> <p>23 BY MS. GAYLE:</p> <p>24 Q. And, Doctor, you mentioned</p>	<p style="text-align: right;">Page 121</p> <p>1 Over the years, in the last</p> <p>2 14 years, you have implanted the TVT; is</p> <p>3 that correct?</p> <p>4 A. Yes.</p> <p>5 Q. And, Doctor, over the years,</p> <p>6 you have implanted the TVT-O; is that</p> <p>7 also correct?</p> <p>8 A. Yes.</p> <p>9 Q. And, Doctor, as those</p> <p>10 iterations for those particular products</p> <p>11 in the IFU changed over time, is it fair</p> <p>12 to say that as you were implanting those</p> <p>13 products, you would change your</p> <p>14 discussions with your patients as those</p> <p>15 IFUs gave you more information?</p> <p>16 MR. SNELL: Object to form.</p> <p>17 Misstates.</p> <p>18 THE WITNESS: No, I don't</p> <p>19 think so.</p> <p>20 BY MS. GAYLE:</p> <p>21 Q. So, Doctor, if the IFU was</p> <p>22 updated to include more adverse events,</p> <p>23 for instance, let's say dyspareunia,</p> <p>24 would you then include that in your</p>

<p style="text-align: right;">Page 122</p> <p>1 discussions with your patients?</p> <p>2 MR. SNELL: Same objection.</p> <p>3 Go ahead.</p> <p>4 BY MS. GAYLE:</p> <p>5 Q. Do you understand my</p> <p>6 question, Doctor?</p> <p>7 A. I do.</p> <p>8 So I do not rely on the IFU.</p> <p>9 It's certainly a nice addition to all my</p> <p>10 knowledge base. But I rely much more on</p> <p>11 my training, the review of the medical</p> <p>12 literature and my personal experience in</p> <p>13 regard to my counseling of my patients.</p> <p>14 And, for instance,</p> <p>15 dyspareunia has been something that's</p> <p>16 been known as a potential complication of</p> <p>17 any pelvic reconstructive surgery for the</p> <p>18 past 50 years.</p> <p>19 Q. And you said you don't rely</p> <p>20 on the IFU; is that correct?</p> <p>21 A. No, I said I don't rely</p> <p>22 solely on it. It's part of the</p> <p>23 information that is included in my whole</p> <p>24 knowledge base.</p>	<p style="text-align: right;">Page 124</p> <p>1 the company to do that?</p> <p>2 A. So part of a company's</p> <p>3 responsibility is to convey information</p> <p>4 to the doctors that use their products.</p> <p>5 And it is important for that information,</p> <p>6 obviously, to be as accurate as possible.</p> <p>7 Q. And, Doctor, in that process</p> <p>8 of them conveying information to the</p> <p>9 doctors, then the doctors can, in turn,</p> <p>10 convey the information to the patients;</p> <p>11 is that fair?</p> <p>12 MR. SNELL: Hold on. I</p> <p>13 object. It calls for speculation</p> <p>14 now.</p> <p>15 MS. GAYLE: Sure. Strike</p> <p>16 that question.</p> <p>17 BY MS. GAYLE:</p> <p>18 Q. Doctor, can you explain what</p> <p>19 the informed consent process is that</p> <p>20 doctors undergo with their patients?</p> <p>21 MR. SNELL: Same objection.</p> <p>22 Go ahead.</p> <p>23 THE WITNESS: Sure.</p> <p>24 So the informed consent</p>
<p style="text-align: right;">Page 123</p> <p>1 But it is not something that</p> <p>2 I expect to go to, to know of every</p> <p>3 single potential risk of a product or</p> <p>4 procedure.</p> <p>5 Q. And I'm not inferring that</p> <p>6 you would, Doctor.</p> <p>7 But on the part of the IFU</p> <p>8 that you do rely on, in that little small</p> <p>9 part of your knowledge base, as you just</p> <p>10 inferred, Doctor, would you expect the</p> <p>11 IFU to be accurate at all times that</p> <p>12 you're looking at it and relying on it?</p> <p>13 MR. SNELL: Object to form.</p> <p>14 Go ahead.</p> <p>15 THE WITNESS: I think to the</p> <p>16 form that the company that</p> <p>17 produces the IFU, they want to be</p> <p>18 as accurate as they can. I</p> <p>19 absolutely think that's important.</p> <p>20 BY MS. GAYLE:</p> <p>21 Q. Just again, and for the</p> <p>22 benefit of others that may not understand</p> <p>23 what we all do here today, can you</p> <p>24 explain why that would be important for</p>	<p style="text-align: right;">Page 125</p> <p>1 process is a process that occurs</p> <p>2 from the first time you meet a</p> <p>3 patient until the time that they</p> <p>4 go to sleep for their surgery.</p> <p>5 Generally, the biggest part</p> <p>6 of that informed consent process</p> <p>7 is the preoperative counseling</p> <p>8 visit where the patient actually</p> <p>9 signs a written form.</p> <p>10 But the most important part</p> <p>11 of that process is the discussion</p> <p>12 of the condition that the patient</p> <p>13 is suffering from; the options in</p> <p>14 regards to moving forward, both</p> <p>15 treatment and nontreatment; the</p> <p>16 pros and cons of treatment and</p> <p>17 nontreatment; and then the pros</p> <p>18 and cons of the treatment options</p> <p>19 that are available.</p> <p>20 And then after doing that</p> <p>21 and coming to a decision with the</p> <p>22 patient as to what procedure to</p> <p>23 perform, specifically discussing</p> <p>24 what to expect leading up to the</p>

<p style="text-align: right;">Page 126</p> <p>1 surgery, during the surgery, after</p> <p>2 the surgery. And that includes</p> <p>3 the risks and benefits of the</p> <p>4 surgery.</p> <p>5 BY MS. GAYLE:</p> <p>6 Q. And when you say "pros and</p> <p>7 cons," does that also include the risks</p> <p>8 and benefits of the surgery or the</p> <p>9 particular treatment that you're talking</p> <p>10 about?</p> <p>11 A. Yes.</p> <p>12 Q. And is it fair to say,</p> <p>13 Doctor, that those types of discussions,</p> <p>14 as medical science evolved over the</p> <p>15 years, may have changed in your practice</p> <p>16 over the years?</p> <p>17 MR. SNELL: Object to form.</p> <p>18 Asked and answered.</p> <p>19 THE WITNESS: I don't</p> <p>20 think -- well, certainly. I mean,</p> <p>21 in incremental, small amounts,</p> <p>22 yes.</p> <p>23 BY MS. GAYLE:</p> <p>24 Q. Doctor, we talked about some</p>	<p style="text-align: right;">Page 128</p> <p>1 A. Not off the top of my head.</p> <p>2 Q. And you said -- earlier you</p> <p>3 qualified my question about whether or</p> <p>4 not you implant TVT to this day.</p> <p>5 That infers that you've</p> <p>6 stopped implanting TVT at some point; is</p> <p>7 that correct?</p> <p>8 A. It is. In that I have</p> <p>9 switched from the TVT traditional,</p> <p>10 original, to the TVT EXACT®.</p> <p>11 Q. And, Doctor, when did you</p> <p>12 switch from the TVT original to the TVT</p> <p>13 EXACT®?</p> <p>14 A. I couldn't give you an exact</p> <p>15 date. But it would probably be some time</p> <p>16 within the first 18 months after that</p> <p>17 product launched. And I don't know</p> <p>18 exactly when that was. My guess was it</p> <p>19 was about five to eight years ago,</p> <p>20 something along those lines.</p> <p>21 Q. I was going to say, Doctor,</p> <p>22 can you clarify, you said 18 months after</p> <p>23 that product launch.</p> <p>24 Can you clarify what product</p>
<p style="text-align: right;">Page 127</p> <p>1 of the iterations in the TVT IFU and the</p> <p>2 TVT-O IFU.</p> <p>3 As those iterations changed</p> <p>4 over the years, did you incorporate those</p> <p>5 changes with regard to the adverse events</p> <p>6 and to your discussions with your</p> <p>7 patients?</p> <p>8 MR. SNELL: Objection.</p> <p>9 Asked and answered.</p> <p>10 THE WITNESS: I've never</p> <p>11 seen anything in the IFU -- in any</p> <p>12 of the iterations of the IFU that</p> <p>13 changed the way I discussed the</p> <p>14 pros and cons of the procedure --</p> <p>15 of those two procedures with my</p> <p>16 patients.</p> <p>17 BY MS. GAYLE:</p> <p>18 Q. And that would include the</p> <p>19 last IFU that you reviewed for those</p> <p>20 particular products; is that fair?</p> <p>21 A. Yes.</p> <p>22 Q. And, Doctor, do you know</p> <p>23 approximately what year the last IFU that</p> <p>24 you reviewed was?</p>	<p style="text-align: right;">Page 129</p> <p>1 you're referring to?</p> <p>2 A. TVT EXACT®.</p> <p>3 Q. And, Doctor, why did you</p> <p>4 switch over to the TVT EXACT®?</p> <p>5 A. I think it was just a little</p> <p>6 bit more user friendly than the TVT</p> <p>7 EXACT® -- excuse me, than the original</p> <p>8 TVT.</p> <p>9 Q. And in what way, Doctor?</p> <p>10 A. So with the traditional TVT,</p> <p>11 when you place the first trocar, you look</p> <p>12 inside the bladder to make sure there's</p> <p>13 not a perforation. Assuming there is</p> <p>14 not, you pull that trocar through. You</p> <p>15 pass the second side, assuming there's</p> <p>16 not a perforation. Then you -- so you</p> <p>17 have to do two cystoscopies.</p> <p>18 For the TVT EXACT®, the</p> <p>19 trocar has a plastic covering. And that</p> <p>20 plastic covering is much more flexible</p> <p>21 than the metal trocar that you would have</p> <p>22 had to have left in for the original TVT.</p> <p>23 So it allows you to pass both sides</p> <p>24 before doing cystoscopy. So it makes the</p>

<p style="text-align: right;">Page 130</p> <p>1 procedure more efficient.</p> <p>2 The needle is also smaller</p> <p>3 in diameter than the original, and that</p> <p>4 makes the passage a little bit easier.</p> <p>5 I think that both products</p> <p>6 are excellent products. And if I had to</p> <p>7 go back to the original one, I think I</p> <p>8 could do fine with it. But it just made</p> <p>9 it a little bit more, as I said,</p> <p>10 convenient and user friendly to use the</p> <p>11 EXACT® over the traditional.</p> <p>12 Q. And, Doctor, in your report,</p> <p>13 you talked a little bit about pore size.</p> <p>14 Do you know if pore size on</p> <p>15 the TVT original and the TVT EXACT® are</p> <p>16 the same?</p> <p>17 A. To the best of my knowledge,</p> <p>18 they are the same, yes.</p> <p>19 Q. Do you know if the weight of</p> <p>20 the product is the same?</p> <p>21 A. As far as I know, yes.</p> <p>22 Well, let me rephrase. So</p> <p>23 the original TVT now comes in both a</p> <p>24 laser cut and a mechanical cut. The TVT</p>	<p style="text-align: right;">Page 132</p> <p>1 internal documents regarding this,</p> <p>2 they felt that there would not be</p> <p>3 a substantial change in the</p> <p>4 clinical efficacy of the device if</p> <p>5 they performed a laser cut. And</p> <p>6 so they decided to make that</p> <p>7 available as well.</p> <p>8 BY MS. GAYLE:</p> <p>9 Q. Doctor, you said that some</p> <p>10 physicians preferred the laser cut over</p> <p>11 the mechanical cut.</p> <p>12 Why was that preference</p> <p>13 there?</p> <p>14 MR. SNELL: Object to form.</p> <p>15 Go ahead.</p> <p>16 THE WITNESS: The documents</p> <p>17 that I reviewed where they</p> <p>18 specifically talked about reasons</p> <p>19 why some physicians preferred that</p> <p>20 mostly talked to the issue of</p> <p>21 small pieces of the mesh</p> <p>22 separating from the sling itself</p> <p>23 with the mechanical cut.</p> <p>24 BY MS. GAYLE:</p>
<p style="text-align: right;">Page 131</p> <p>1 EXACT® only comes in the laser cut.</p> <p>2 Is the weight different with</p> <p>3 a laser cut from the EXACT® than the</p> <p>4 mechanical cut from the original TVT?</p> <p>5 Maybe a couple milligrams, but not --</p> <p>6 nothing substantial and certainly nothing</p> <p>7 that's clinically relevant.</p> <p>8 Q. Doctor, do you know why they</p> <p>9 switched from the laser cut to -- from</p> <p>10 the mechanical cut to the laser cut?</p> <p>11 MR. SNELL: Object.</p> <p>12 Misstates.</p> <p>13 Go ahead.</p> <p>14 THE WITNESS: Yes, so they</p> <p>15 are both still available, so they</p> <p>16 didn't switch wholeheartedly --</p> <p>17 completely.</p> <p>18 I think there were certainly</p> <p>19 some physicians that, you know,</p> <p>20 the company spoke to that felt</p> <p>21 that they preferred the laser cut.</p> <p>22 So, ultimately, after -- after</p> <p>23 doing evaluation of the two</p> <p>24 techniques, and I've reviewed</p>	<p style="text-align: right;">Page 133</p> <p>1 Q. And, Doctor, in the</p> <p>2 mechanical cut, if small pieces were to</p> <p>3 separate in the human body from the</p> <p>4 mechanical cut, that potentially could</p> <p>5 cause a patient complications?</p> <p>6 A. There's certainly no</p> <p>7 evidence in the medical literature to</p> <p>8 suggest that that's the case.</p> <p>9 Q. So you don't believe that --</p> <p>10 summarizing your opinion, you don't</p> <p>11 believe that if there was any sort of</p> <p>12 particles or pieces of mesh that had</p> <p>13 frayed off of a mechanical cut piece of</p> <p>14 mesh, that that would cause any sort of</p> <p>15 complication in a patient? Did I</p> <p>16 summarize that correctly?</p> <p>17 MR. SNELL: Asked and</p> <p>18 answered.</p> <p>19 Go ahead.</p> <p>20 THE WITNESS: I think</p> <p>21 overall as a whole, yes, that's</p> <p>22 correct.</p> <p>23 BY MS. GAYLE:</p> <p>24 Q. Do you believe that those</p>

<p style="text-align: right;">Page 134</p> <p>1 pieces of mesh that would fray off a 2 mechanical cut piece would cause any 3 inflammatory response? 4 MR. SNELL: Foundation. 5 THE WITNESS: I don't think 6 it would be any greater than the 7 sling itself. 8 BY MS. GAYLE: 9 Q. And what do you mean by "any 10 greater than the sling itself"? 11 A. So there's always some 12 degree of inflammation regarding 13 placement of a foreign body in the human 14 body. And there's going to be 15 inflammation from the sling itself. 16 If little particles of that 17 sling separate from the sling itself, 18 it's still the same amount of foreign 19 body that would have been in the patient. 20 And I don't think the inflammatory 21 response is substantially different if 22 it's separate from the sling versus 23 attached to the sling. 24 Q. When you were reviewing your</p>	<p style="text-align: right;">Page 136</p> <p>1 original TVT-O. 2 Q. Do you know which product is 3 the laser-cut product? 4 A. I believe that the original 5 TVT-O and the original TVT are now 6 available as laser cut. It's my 7 understanding that all the EXACTs® and 8 all the ABBREVOs® are laser cut. 9 Q. And I believe you earlier, 10 Doctor, correct me if I'm wrong, that you 11 weren't part of that decision at Ethicon 12 when they were discussing moving from a 13 mechanical cut to a laser cut on some 14 products or all products, correct? 15 A. I was not part of that 16 discussion in any formalized way. 17 Someone may have asked me in the hall, at 18 a meeting, what did I think about it, but 19 nothing that was official. 20 Q. Doctor, have you ever 21 operated on a patient where you've had to 22 remove these particles of the mesh that 23 may have come off from mechanical pieces 24 of mesh?</p>
<p style="text-align: right;">Page 135</p> <p>1 materials for Ethicon, and you say you 2 were reviewing the doctors talking about 3 some of their reasons they were 4 switching, did you review any materials 5 where the doctors were talking about 6 patients where a fraying piece of 7 material had caused one of their patients 8 a complication? 9 MR. SNELL: Object. 10 Foundation. 11 Go ahead. 12 Foundation. Misstates 13 evidence. 14 Go ahead. 15 THE WITNESS: I don't recall 16 specifically a doctor saying it 17 caused a complication in one of 18 their patients. 19 BY MS. GAYLE: 20 Q. Doctor, do you know which 21 products were mechanically cut? 22 A. Yes. 23 Q. Which ones were those? 24 A. The original TVT and the</p>	<p style="text-align: right;">Page 137</p> <p>1 A. No. 2 Q. When you're operating on a 3 patient, can you tell with your naked eye 4 which pieces, or which -- when you're 5 looking into the human body, can you tell 6 which pieces may have been mechanically 7 cut versus which have been laser cut? 8 A. So just so I understand your 9 question. 10 If you're saying I have a 11 patient that has had a sling placed and I 12 go back in and open up the tissues, if I 13 look at the mesh -- the sling, can I tell 14 whether it was laser cut or mechanically 15 cut? I never would have had any reason 16 to sort of have that be part of my 17 thought process while I was doing that 18 procedure. 19 If someone presented me two 20 cadavers or something and said, open up 21 these tissues and see which is which, I 22 might be able to tell the difference. 23 But I've never done that in a human, in a 24 live human.</p>

<p style="text-align: right;">Page 138</p> <p>1 Q. If you learned of 2 medically -- medical evidence in the 3 course of this litigation that there 4 would be a difference and that would 5 cause a substantial inflammatory response 6 in a patient, then would that be 7 something that you would start to look 8 out for as you operate on patients? 9 MR. SNELL: Objection. 10 Improper hypothetical. Misstates. 11 Go ahead. 12 BY MS. GAYLE: 13 Q. In other words, if you 14 learned that information, Doctor, would 15 that -- would you incorporate that 16 information so that you could use that in 17 your practice as you're operating on your 18 patients? 19 MR. SNELL: Same objection. 20 Improper hypothetical. As well as 21 speculation now. 22 THE WITNESS: So I think 23 that's a hypothetical. I don't 24 think there's any evidence to</p>	<p style="text-align: right;">Page 140</p> <p>1 MR. SNELL: Same objection. 2 It's an improper hypothetical. 3 Speculation. 4 THE WITNESS: So if what 5 happened was a case was decided 6 and the jury felt that the reason 7 the patient suffered a 8 complication was because of a 9 mechanically cut -- 10 BY MS. GAYLE: 11 Q. We're not talking about 12 litigation. So let me try to ask the 13 question again. 14 We're talking about if you 15 saw some sort of medical evidence in your 16 review of the materials that you've been 17 reviewing for your expert opinion, and 18 you thought that that medical evidence 19 was sound and that it was influential to 20 you and your opinions, and it did say 21 that there was an inflammatory response 22 due to these fraying particles, would you 23 then change the nature of how you would 24 operate on those patients looking for the</p>
<p style="text-align: right;">Page 139</p> <p>1 suggest that that is the case, 2 despite lots and lots of studies. 3 BY MS. GAYLE: 4 Q. And I can ask you a 5 hypothetical, Doctor. So just 6 hypothetically speaking -- 7 A. That's fine. 8 MR. SNELL: A witness is 9 allowed to reject a hypothetical 10 if they say there is no basis for 11 it, which is what he testified to. 12 MS. GAYLE: I would dispute 13 that. 14 BY MS. GAYLE: 15 Q. Doctor, again, if there was 16 evidence that came up in the course of 17 this litigation, and I'm asking if you 18 would incorporate that, if it were -- if 19 it would impact how you would practice, 20 in other words, it would be something 21 that would cause you concern, would you 22 adapt to that and would you incorporate 23 that when you're operating on your 24 patients?</p>	<p style="text-align: right;">Page 141</p> <p>1 particles, whereas now you do not look 2 for the particles? 3 MR. SNELL: Same objections. 4 Also compound. And misstates now. 5 Go ahead. 6 THE WITNESS: So if the 7 evidence that came out was 8 clinically relevant, you mean 9 actually impacted patient 10 outcomes, and there was no 11 question about the validity of it, 12 then, yes, I would incorporate 13 that into how I take care of my 14 patients. 15 BY MS. GAYLE: 16 Q. And, Doctor, that would be 17 true for any type of complication that we 18 might discuss today; if it were 19 clinically relevant and it would impact 20 the patient outcome and you've learned of 21 new medical evidence, then that would 22 change the way that you would treat your 23 patients; is that fair? 24 MR. SNELL: Same objection.</p>

<p style="text-align: right;">Page 142</p> <p>1 Hypothetical. And speculation.</p> <p>2 THE WITNESS: I am</p> <p>3 continually evaluating all the</p> <p>4 information out there, that would</p> <p>5 include anything that came up in</p> <p>6 legal proceedings, to best take</p> <p>7 care of my patients.</p> <p>8 BY MS. GAYLE:</p> <p>9 Q. And, in fact, that would be</p> <p>10 your goal, is to provide the best care</p> <p>11 for your patients that you possibly can?</p> <p>12 A. Absolutely.</p> <p>13 Q. Doctor, do you know whether</p> <p>14 the laser-cut mesh is stiffer than the</p> <p>15 mechanically cut mesh?</p> <p>16 A. So I've reviewed all the</p> <p>17 documents regarding the stiffness of</p> <p>18 mesh, both mechanically cut and laser</p> <p>19 cut. And I know there is a difference at</p> <p>20 different degrees of stress on the mesh.</p> <p>21 Q. Have you seen any of the</p> <p>22 Ethicon studies regarding whether or not</p> <p>23 the laser-cut mesh is three times stiffer</p> <p>24 than the mechanically cut mesh?</p>	<p style="text-align: right;">Page 144</p> <p>1 year, do you think you've treated that</p> <p>2 have TVT that have had complications?</p> <p>3 Not from yourself, but may have been</p> <p>4 referred to you, your total patient</p> <p>5 population, Doctor?</p> <p>6 A. Just for clarity sake, are</p> <p>7 we talking about the original TVT?</p> <p>8 Q. Yes, the original TVT.</p> <p>9 A. I don't think any.</p> <p>10 Q. And how many patients do you</p> <p>11 think that you've treated, in total, with</p> <p>12 regard to any complications from TVT-O?</p> <p>13 A. In total in my whole</p> <p>14 practice?</p> <p>15 Q. This year. This year.</p> <p>16 A. This year.</p> <p>17 Maybe one or two. But</p> <p>18 it's -- it could be zero.</p> <p>19 Q. And, Doctor, with regard to</p> <p>20 any of the other products, with TVT</p> <p>21 EXACT®, TVT ABBREVO®, TVT-Secur, could</p> <p>22 you break down how many patients you</p> <p>23 think you may have treated this year with</p> <p>24 regard to those three products and</p>
<p style="text-align: right;">Page 143</p> <p>1 A. I don't recall specifically</p> <p>2 seeing three times. But I would be happy</p> <p>3 to look at any document you want to</p> <p>4 produce.</p> <p>5 Q. But you don't recall that</p> <p>6 particular study?</p> <p>7 A. Not particularly that it was</p> <p>8 three times more.</p> <p>9 Q. Doctor, we've talked about</p> <p>10 how you treat your patients with</p> <p>11 complications following a sling implant</p> <p>12 procedure.</p> <p>13 When you see these patients,</p> <p>14 do you generally attribute their problems</p> <p>15 to any one particular thing?</p> <p>16 A. No.</p> <p>17 MR. SNELL: Object.</p> <p>18 Overbroad.</p> <p>19 Go ahead.</p> <p>20 BY MS. GAYLE:</p> <p>21 Q. So, Doctor, when you treat</p> <p>22 your patients -- let's talk about your</p> <p>23 numbers first.</p> <p>24 So how many patients, this</p>	<p style="text-align: right;">Page 145</p> <p>1 complications?</p> <p>2 MR. SNELL: Complications</p> <p>3 only, not implanting?</p> <p>4 MS. GAYLE: Not implanting.</p> <p>5 BY MS. GAYLE:</p> <p>6 Q. Whether they were referred</p> <p>7 to you or your own patient population.</p> <p>8 A. Maybe one or two.</p> <p>9 Q. And would that be -- when we</p> <p>10 talk about complications, would that be a</p> <p>11 variety of complications or a</p> <p>12 complication that you would attribute to</p> <p>13 any one particular factor?</p> <p>14 A. So if we're talking about</p> <p>15 any that are particularly this year, I'd</p> <p>16 have to look back at the chart.</p> <p>17 But I can certainly give you</p> <p>18 my answer for over the last five years,</p> <p>19 if that makes things easier.</p> <p>20 Q. Yes. Let's do that.</p> <p>21 A. Okay. So the primary</p> <p>22 complaints or complications that I see</p> <p>23 patients presenting with, in regards to</p> <p>24 all the TVT family of products, they</p>

<p style="text-align: right;">Page 146</p> <p>1 are -- the two most common ones are 2 voiding dysfunction in some form, 3 essentially too much tensioning on the 4 sling or proper tensioning and the 5 patient just has poor detrusor function; 6 and then exposure of the mesh in the 7 vagina; and then, lastly, pain associated 8 with the surgery that they had. 9 Generally, that is in the form -- well, 10 that can be in the form of just pain 11 unrelated to intercourse or pain related 12 to intercourse. 13 Q. And, Doctor, with regard to 14 the too much tensioning on the sling, is 15 that an issue that you would attribute to 16 the implanting physician? 17 A. So, you know, with all these 18 complications, there's an interaction 19 between the surgeon performing the 20 surgery, the patient who is receiving the 21 surgery, and the device that is implanted 22 in the patient. 23 And all of them can 24 contribute, to different degrees, to the</p>	<p style="text-align: right;">Page 148</p> <p>1 Q. And, Doctor, what -- in that 2 interaction, what part would the patient 3 play in that? 4 A. So various ways. So some 5 people have different body habituses than 6 others; so their bone structure, their 7 pelvis is anomalous, or they are 8 particularly thin or they are 9 particularly heavy, or there are other 10 conditions of their body in regards to 11 atrophy or prior radiation that can 12 contribute to the issue. 13 There are activities that 14 the patient takes -- partakes in, both 15 before and after the surgery. So if they 16 are a smoker, if they resume certain 17 activities, like intercourse, prior to 18 proper healing, that -- those are the 19 patient factors, amongst others, that can 20 contribute to the complication. 21 Q. And we talked about your 22 informed consent process earlier and your 23 conversations generally with your 24 patients over time.</p>
<p style="text-align: right;">Page 147</p> <p>1 complication. 2 Q. So you would not blame an 3 implanting physician solely for any sort 4 of complication? 5 A. Well, "blame" is a kind of 6 interesting term. So -- 7 Q. You would not attribute, 8 let's say -- 9 A. Yes. 10 Q. -- any complication to 11 solely the implanting physician? 12 MR. SNELL: Object to the 13 form. 14 BY MS. GAYLE: 15 Q. You said there's an 16 interaction. 17 A. Yes. I think that for 18 the -- I think there may be instances 19 where it could be pretty much solely 20 related to the surgeon. I don't know 21 that I've ever seen that exact situation. 22 Hypothetically, it could be. 23 But usually it's an 24 interaction.</p>	<p style="text-align: right;">Page 149</p> <p>1 Do you talk to your 2 patients, when you're implanting TVT or 3 TVT-O, about the risk of smoking? 4 A. I do. 5 Q. And do you talk to them -- 6 do you tell them -- strike that. 7 Do you tell them whether or 8 not the risk of smoking is a 9 complication -- would be causing a 10 complication following their device 11 implant? 12 A. I would never tell them it 13 was the cause. What I would counsel 14 them, preoperatively, I think that's what 15 you asked, is that smoking compromises 16 wound healing of all types, and that 17 includes the incision healing over a 18 sling that is placed. 19 So, in general, both from an 20 anesthesia standpoint and a wound healing 21 standpoint, the cessation of smoking is 22 something that can very much help the 23 patient. And it's often a good excuse to 24 get them to stop smoking anyway. Most</p>

<p style="text-align: right;">Page 150</p> <p>1 people are looking for a reason to stop 2 smoking so it's a good -- 3 Q. Do you know if smoking is a 4 contraindication in the TVT or TVT-O IFU? 5 A. It is not, as far as I know. 6 Q. You said there are other 7 factors from a patient standpoint. 8 And I think that you maybe 9 inferred that a person's size, for 10 instance, their weight, might be a 11 factor; is that fair? 12 A. Yes. 13 Q. And do you know if obesity 14 is a contraindication in the IFU for TVT 15 or TVT-O? 16 A. To my knowledge, it is not. 17 Q. Would diabetes, in your 18 opinion, be a factor that could play into 19 how a patient is -- complications a 20 patient might receive? 21 A. So diabetes is much like 22 smoking. It tends to impair wound 23 healing. So, yes, uncontrolled diabetes 24 is a factor that one would like to avoid</p>	<p style="text-align: right;">Page 152</p> <p>1 patients that were your patients, meaning 2 you had operated on those particular 3 patients and implanted the device, or 4 were those patients that were referred to 5 you, or were they a mix? 6 A. For the sake of the ease of 7 this deposition, since I don't recall the 8 exact cases, I would say that I see 9 complications both from my own patients 10 and ones that are referred to me in which 11 I did not do the original surgery. 12 Q. And, Doctor, on the patients 13 that are referred to you in your 14 practice, are they referred from any one 15 particular source? 16 A. No. 17 Q. And they're referred from 18 across this region, would that be fair, 19 Doctor? 20 A. Yes. 21 Q. And your practice, Doctor, 22 is connected -- let me strike that. 23 Is your practice connected 24 with a hospital facility, Doctor?</p>
<p style="text-align: right;">Page 151</p> <p>1 if doing any type of surgery. 2 Q. And I'm going to ask you the 3 same question, I'm sorry, Doctor. 4 But would that -- do you 5 know whether or not uncontrolled 6 diabetes, or diabetes, is a 7 contraindication in the TVT or TVT-O IFU? 8 A. It is not. 9 Q. And, Doctor, I don't think 10 you maybe specified, we talked about the 11 last five years generally, the patients 12 that you've treated. 13 Can you put a number on 14 that, if you had to, for the TVT/TVT-O 15 product? 16 A. The number of complications 17 specifically from the traditional TVT and 18 TVT-O? 19 Q. Yes, sir. 20 A. I would probably say 21 somewhere in the range of one to five in 22 the last five years. 23 Q. And, Doctor, from that one 24 to five, if you recall, were those</p>	<p style="text-align: right;">Page 153</p> <p>1 A. So we are a private 2 practice. We are affiliated with two 3 health systems, Saint Luke's Health 4 Network, and what is now known as 5 Abington-Jefferson Health. For most of 6 those 14 years, it was Abington Memorial 7 Hospital. But within the last two years 8 or so we have merged with Jefferson 9 Health System. 10 I work more out of the 11 latter than the former. 12 Q. And are you the only 13 urogynecologist in that particular 14 practice? 15 A. I am not. 16 Q. How many do you have? 17 A. We have three, including 18 myself. 19 Q. Are they all fellowship 20 trained, board certified? 21 A. Yes. 22 Q. And how long have they been 23 working with you? 24 A. Dr. Lucente has been working</p>

<p style="text-align: right;">Page 154</p> <p>1 with me ever since I started. And Dr. 2 Ephraim did her fellowship with us and is 3 now an attending in our practice, and 4 that has been the case for approximately 5 two years and change, I believe. 6 Q. And it's the three of you, 7 then, correct? 8 A. We also have a nurse 9 practitioner who is a provider in our 10 office. She does not operate. 11 MR. SNELL: Counsel, we've 12 been going about another hour and 13 25 minutes. We need to take a 14 break. I need to order some lunch 15 and stuff. 16 - - - 17 (Whereupon, a brief recess 18 was taken.) 19 - - - 20 BY MS. GAYLE: 21 Q. Okay, Doctor, we're back on 22 the record. 23 Switching gears just a 24 little bit, do you remember when the TVT</p>	<p style="text-align: right;">Page 156</p> <p>1 and certainly some of the longer-term 2 studies of the TVT. 3 Q. Do you know whether he was a 4 paid expert on behalf of Ethicon, Johnson 5 & Johnson or Gynecare? 6 A. I don't know for sure. 7 Q. And you said Ulmsten. 8 Ulmsten, I'm sorry, I'm probably 9 mispronouncing it. 10 Do you know whether he was a 11 paid consultant? 12 A. Well, I know that he 13 received royalties for the device. And 14 I'm sure that in the process of going 15 from a sort of investigational device in 16 his own hands to making it a system that 17 was marketed by Gynecare that he was paid 18 for that, I'm sure, yes. 19 Q. Do you know whether or not, 20 in the royalties that he received, there 21 was any stipulation connected with 22 complications reported? 23 MR. SNELL: Object to form. 24 THE WITNESS: I don't recall</p>
<p style="text-align: right;">Page 155</p> <p>1 came on the market? 2 A. Yes. 3 Q. And what year was that? 4 A. It was the late 1990s. 5 - - - 6 (Whereupon, a discussion off 7 the record occurred.) 8 - - - 9 BY MS. GAYLE: 10 Q. Doctor, do you know who was 11 the inventor of the TVT? 12 A. I think the person that 13 would be most considered the inventor was 14 Ulf Ulmsten. 15 Q. Do you know a Dr. Nilsson? 16 A. Not personally. 17 Q. Have you heard Dr. Nilsson's 18 name in connection with TVT? 19 A. Yes. 20 Q. And what's your 21 understanding of who he is? 22 A. My understanding is that 23 he's another Scandinavian surgeon who was 24 involved with some of the early studies</p>	<p style="text-align: right;">Page 157</p> <p>1 seeing any documents to that 2 effect. 3 BY MS. GAYLE: 4 Q. If there were such a 5 connection, limiting his royalties if 6 complications had been reported, would 7 that be something you would want to know? 8 MR. SNELL: I'm going to 9 object to the foundation, you've 10 changed your question now, to 11 foundation of your question. 12 BY MS. GAYLE: 13 Q. If there were, Doctor -- if 14 you understand the question, go ahead and 15 answer it. 16 If there were some sort of 17 limitation on his royalties due to 18 reported complications, would that be 19 some information that you would want to 20 know? 21 MR. SNELL: Same objection. 22 THE WITNESS: My 23 understanding regarding Dr. 24 Ulmsten is that he worked all his</p>

<p style="text-align: right;">Page 158</p> <p>1 life in the treatment of urology. 2 And the majority of his time was 3 spent in the treatment of urinary 4 incontinence in women. 5 And he worked years, from a 6 scientific standpoint, long before 7 he was ever paid any money from 8 Gynecare, on the best treatments, 9 the best materials to use in the 10 treatment of stress incontinence. 11 I did not know him 12 personally. But it would surprise 13 me if he would substantially alter 14 his reported results purely for 15 financial reasons. 16 BY MS. GAYLE: 17 Q. And, Doctor, I appreciate 18 that answer. 19 But my question is, do you 20 know, yes or no, whether or not there is 21 any sort of limitation, again, on the 22 royalties that he might receive due to 23 reported complications? 24 MR. SNELL: Object to form.</p>	<p style="text-align: right;">Page 160</p> <p>1 BY MS. GAYLE: 2 Q. I'm trying to get to bias. 3 You talked about bias earlier, so let's 4 go at it that way. 5 A. Sure. 6 Q. And you said, I think, 7 something to the effect of in this day 8 and age, or nowadays, you think it's 9 important that authors of articles 10 disclose bias. And that's where I'm 11 going with this question, Doctor. 12 If Dr. Ulmsten had some sort 13 of bias, would that bias be information 14 that you would want to know? 15 A. I think that all people have 16 biases, whether that is financial bias or 17 otherwise. 18 I think that my answer to 19 that other question was in regards to 20 what is expected. And I think what's 21 expected in 2018 isn't necessarily what 22 was expected in 1998. And so I think, 23 again, the more information you have 24 about a person who is submitting data for</p>
<p style="text-align: right;">Page 159</p> <p>1 BY MS. GAYLE: 2 Q. It's a yes-or-no question? 3 MR. SNELL: Hold on. I'm 4 going to object, because this is a 5 different question than what you 6 posed earlier, which was, was 7 there a stipulation. 8 That's my objection, 9 counsel. You're changing it, but 10 you're then tying the follow-up 11 question as if it's the same 12 thing. 13 THE WITNESS: My 14 understanding of your question was 15 a hypothetical. 16 BY MS. GAYLE: 17 Q. Hypothetically, Doctor, yes 18 or no, would you want to know that type 19 of information? 20 MR. SNELL: Same objection. 21 THE WITNESS: Again, I'm 22 sorry, I thought you said, 23 hypothetically, would it -- 24 let's --</p>	<p style="text-align: right;">Page 161</p> <p>1 a peer-reviewed journal, the better you 2 can judge the validity of it. 3 I don't think -- and I think 4 I already answered this question, I don't 5 think that, based on what I know of Dr. 6 Ulmsten, that that would change my view 7 of his results if I knew that. 8 Q. If you knew that 9 complications were somehow tied to the 10 amount of royalties that he were getting? 11 A. That's right. 12 Q. But would it be information 13 that you would want to take into 14 consideration? 15 A. I think that the more 16 information you have about any topic, the 17 better off you're going to be. 18 Q. And, Doctor, we talked about 19 a product that had been taken off the 20 market, the TVT-Secur. 21 Is the TVT-O still on the 22 market, Doctor? 23 A. Yes. 24 Q. And do you still use the</p>

<p style="text-align: right;">Page 162</p> <p>1 TVT-O?</p> <p>2 A. Not the traditional TVT-O.</p> <p>3 Q. And you -- do you use the</p> <p>4 TVT ABBREVO® ®?</p> <p>5 A. I do.</p> <p>6 Q. Do you know when you stopped</p> <p>7 using the TVT-O?</p> <p>8 A. I would say, again, it's</p> <p>9 similar to when I switched to the</p> <p>10 EXACT®®. Within, probably, 18 months of</p> <p>11 the launch of the TVT ABBREVO® ®, I</p> <p>12 stitched to it. And that's a ballpark</p> <p>13 answer.</p> <p>14 Q. Sure. And in connection</p> <p>15 with those two questions, Doctor, you had</p> <p>16 mentioned earlier some of your lectures</p> <p>17 or teaching activities that you do for</p> <p>18 other doctors.</p> <p>19 You continue those type of</p> <p>20 teaching or didactic lectures to this</p> <p>21 day, correct?</p> <p>22 A. Correct.</p> <p>23 Q. And, Doctor, do you know,</p> <p>24 have you talked on TVT in the past 14</p>	<p style="text-align: right;">Page 164</p> <p>1 limited time today, we're not talking</p> <p>2 about the retropubic or the</p> <p>3 transobturator products generally. I'm</p> <p>4 asking specifically about these</p> <p>5 particular products, TVT or TVT-O.</p> <p>6 And you said that you had</p> <p>7 talked in the past about TVT, correct?</p> <p>8 A. Yes.</p> <p>9 Q. Do you happen to remember</p> <p>10 approximately when the last time you</p> <p>11 talked about TVT was?</p> <p>12 A. I'm not trying to be</p> <p>13 argumentative, but I just talked within</p> <p>14 the last year about midurethral slings,</p> <p>15 and that includes TVT. So I don't want</p> <p>16 to come off --</p> <p>17 Q. I think you said talked</p> <p>18 about the product itself, okay.</p> <p>19 A. So are you talking as a</p> <p>20 consultant --</p> <p>21 Q. As a representative --</p> <p>22 A. -- for the company?</p> <p>23 Q. Yes. Thank you.</p> <p>24 A. Thank you.</p>
<p style="text-align: right;">Page 163</p> <p>1 years?</p> <p>2 A. Yes.</p> <p>3 Q. Do you know when the last</p> <p>4 time you talked on TVT was?</p> <p>5 A. I'd like to clarify my</p> <p>6 answer.</p> <p>7 So, you know, I have</p> <p>8 specifically talked, as part of</p> <p>9 professional education, specifically on</p> <p>10 the product. The rest of the lectures</p> <p>11 that I've given specifically, say, in the</p> <p>12 last year or two, they are not branded.</p> <p>13 I'm not specifically talking about the</p> <p>14 Gynecare version of one sling versus the</p> <p>15 other. I'm talking about, in general,</p> <p>16 transobturator slings or retropubic</p> <p>17 slings and whether it's a single incision</p> <p>18 or multi-incision sling.</p> <p>19 But I don't specifically</p> <p>20 lecture regarding just this particular</p> <p>21 company's product.</p> <p>22 Q. And thank you for that,</p> <p>23 Doctor.</p> <p>24 And because I only have</p>	<p style="text-align: right;">Page 165</p> <p>1 So with that understanding,</p> <p>2 the last -- you're asking when the last</p> <p>3 time I spoke as a representative of the</p> <p>4 company or a consultant of the company</p> <p>5 about TVT?</p> <p>6 Q. Correct.</p> <p>7 A. It probably would have been</p> <p>8 some time around 2007.</p> <p>9 Q. And the same question,</p> <p>10 Doctor, but for TVT-O.</p> <p>11 A. Probably 2008 or '09.</p> <p>12 Q. Was that approximately the</p> <p>13 same time that you stopped using those</p> <p>14 products and started using the other</p> <p>15 products, or was it some time after, to</p> <p>16 the best of your recollection?</p> <p>17 A. I think it was before I</p> <p>18 switched.</p> <p>19 Q. And now that you've</p> <p>20 switched, in your words, do you talk, as</p> <p>21 a representative of the company, on the</p> <p>22 products that you now use, being the TVT</p> <p>23 ABBREVO® ® and the TVT EXACT®®?</p> <p>24 MR. SNELL: I'm going to</p>

<p style="text-align: right;">Page 166</p> <p>1 object to the term</p> <p>2 "representative" of the company.</p> <p>3 THE WITNESS: I think I</p> <p>4 testified earlier that I don't</p> <p>5 think I served any sort of</p> <p>6 clinical consultancy to</p> <p>7 Ethicon/Gynecare since 2010, 2011.</p> <p>8 BY MS. GAYLE:</p> <p>9 Q. And that would include any</p> <p>10 sort of physician training activities?</p> <p>11 A. Correct.</p> <p>12 Q. When you were performing</p> <p>13 your physician training activities,</p> <p>14 teaching about the different products,</p> <p>15 the TVT and the TVT-O, would you get some</p> <p>16 materials for your presentation from the</p> <p>17 manufacturer of the device?</p> <p>18 A. Yes.</p> <p>19 Q. Did you expect that those</p> <p>20 materials, whatever that was that you</p> <p>21 received from the company, would be</p> <p>22 accurate and truthful?</p> <p>23 A. Yes.</p> <p>24 Q. And you were imparting that</p>	<p style="text-align: right;">Page 168</p> <p>1 THE WITNESS: Correct.</p> <p>2 BY MS. GAYLE:</p> <p>3 Q. Do you know if TVT is still</p> <p>4 available on the market?</p> <p>5 A. I believe it is, yes.</p> <p>6 Q. And TVT-O is also still on</p> <p>7 the market, correct?</p> <p>8 A. Yes.</p> <p>9 Q. Between the TVT and the</p> <p>10 TVT-O, do you believe that one of those</p> <p>11 products represents more risk for a</p> <p>12 patient than the other?</p> <p>13 A. No.</p> <p>14 Q. And why?</p> <p>15 A. I think that risks vary.</p> <p>16 And I think that there are some aspects</p> <p>17 of the original TVT that carry additional</p> <p>18 risk over the TVT-O. And then I think</p> <p>19 the opposite is true, I think there are</p> <p>20 some risks with the TVT-O that are</p> <p>21 greater with it than with the TVT.</p> <p>22 Q. So let's break those down,</p> <p>23 Doctor.</p> <p>24 So with regard to the TVT,</p>
<p style="text-align: right;">Page 167</p> <p>1 information, in part, to the persons that</p> <p>2 you were training, correct?</p> <p>3 A. Correct. If they gave me a</p> <p>4 slide and I spoke on the slide, I was</p> <p>5 imparting it to the people I was speaking</p> <p>6 to. I may have used my own information</p> <p>7 as well.</p> <p>8 Q. Right. And I'm not</p> <p>9 suggesting that you just used that one</p> <p>10 particular piece of information, if it</p> <p>11 were a slide, but you may have used a</p> <p>12 package insert, correct, to refer to, for</p> <p>13 instance?</p> <p>14 You may have used many</p> <p>15 things that maybe some came from the</p> <p>16 company, some medical journals; is that</p> <p>17 fair?</p> <p>18 A. That's fair.</p> <p>19 Q. A mix.</p> <p>20 But whatever you did receive</p> <p>21 from the company, you would expect it to</p> <p>22 be truthful and accurate, fair?</p> <p>23 MR. SNELL: Objection.</p> <p>24 Asked and answered.</p>	<p style="text-align: right;">Page 169</p> <p>1 what do you think are the greater risks</p> <p>2 there?</p> <p>3 A. I think there's a greater</p> <p>4 risk of bladder perforation with the</p> <p>5 retropubic TVT than with the TVT-O. I</p> <p>6 think there's a greater risk of</p> <p>7 retropubic hematoma with the TVT over the</p> <p>8 TVT-O. I think there's a greater risk of</p> <p>9 intestinal injury with the TVT over the</p> <p>10 TVT-O. I think there's maybe a very</p> <p>11 slight increased risk of voiding</p> <p>12 dysfunction with the retropubic.</p> <p>13 Those are the ones that come</p> <p>14 to mind quickly.</p> <p>15 Q. Do you know if any of those</p> <p>16 three things that you've just listed were</p> <p>17 incorporated into the IFU for the TVT?</p> <p>18 A. I don't see why they would</p> <p>19 be.</p> <p>20 Q. And why is that, Doctor?</p> <p>21 A. Because you just asked me</p> <p>22 about comparing one product to the other,</p> <p>23 not about the specific product.</p> <p>24 Q. Right. But if the TVT has</p>

<p style="text-align: right;">Page 170</p> <p>1 these risks, say, for instance, bladder 2 perforation, would that be something that 3 you would think would be in the IFU? 4 A. I think what's included in 5 the IFU includes that, even if it doesn't 6 use those exact words. 7 Q. And what are the risks for 8 the TVT-O over the TVT? 9 A. I think there is a greater 10 risk of groin pain with the TVT-O. I 11 think there's probably, in my clinical 12 opinion, a higher risk of vaginal 13 exposure, although I don't think from a 14 statistical standpoint that exists. But 15 I think it may be a reasonable clinical 16 difference. 17 That's it. 18 Q. Doctor, on the groin pain, 19 why do you believe that the TVT-O would 20 have groin pain over the TVT? 21 A. Because the path of the 22 sling goes through the groin with the 23 TVT-O and it doesn't with the TVT 24 retropubic.</p>	<p style="text-align: right;">Page 172</p> <p>1 TVT-O goes towards the sulci of the 2 vagina, whereas the path of the 3 retropubic goes more directly to the 4 underside of the pubic bone. 5 So the area of the mesh that 6 is contiguous or tangential to the 7 vaginal lumen is greater with the 8 obturator than with the retropubic. 9 Q. And when you switched and 10 stopped using the obturator and now you 11 use the TVT -- 12 A. ABBREVO® ® . 13 Q. -- ABBREVO® ® , do you still 14 see that phenomenon with use of the 15 ABBREVO® ® ? 16 MR. SNELL: Object to form. 17 THE WITNESS: So I wasn't 18 quoting on my personal experience. 19 I was talking about the scientific 20 literature in general. 21 BY MS. GAYLE: 22 Q. So from a scientific 23 standpoint, do you see that risk in the 24 TVT ABBREVO® ® also?</p>
<p style="text-align: right;">Page 171</p> <p>1 Q. And your report, Doctor, 2 talks a lot about the inside-out versus 3 outside-in sort of product and 4 terminology that they use. 5 What, can you clarify, is 6 the TVT-O? 7 A. It's an inside-out sling. 8 Q. And do you believe that the 9 inside-out approach is more beneficial 10 than the outside-in approach? 11 A. I think that there are 12 reasons that I prefer it. I think what's 13 the most important thing is what's 14 comfortable in any given surgeon's hands. 15 I think that the vast 16 majority of the literature out there 17 suggests that there's no real substantial 18 difference in the outside-in versus the 19 inside-out. 20 Q. And you said that in your 21 clinical opinion vaginal exposure would 22 be one of the risks. 23 Why is that? 24 A. Because the path of the</p>	<p style="text-align: right;">Page 173</p> <p>1 A. I do. 2 Q. Do you also see groin pain 3 in the TVT ABBREVO® ® ? 4 A. I think you can have groin 5 pain after a TVT ABBREVO® ® , and I think 6 the risk of it is probably a little 7 higher than it would be in a retropubic 8 TVT. I think significant groin pain is 9 very rare after the TVT ABBREVO® ® . 10 Q. Doctor, do you believe that 11 the TVT or TVT-O products pose any risk 12 to a patient over and beyond those that 13 traditional surgeries might pose? 14 A. So the one thing that I 15 think is indisputable is that it is 16 impossible to have a mesh erosion or 17 exposure if mesh is not implanted in a 18 patient. 19 I think that if you 20 consider, which I do, a mesh exposure to 21 be a wound complication, then I don't 22 think the rates are any higher with a TVT 23 or TVT-O than with a traditional, what I 24 call suture-based, repair.</p>

<p style="text-align: right;">Page 174</p> <p>1 But, again, you certainly</p> <p>2 can't have a mesh exposure or mesh</p> <p>3 erosion if you don't implant mesh.</p> <p>4 Q. And, Doctor, you said that</p> <p>5 you consider exposure a wound</p> <p>6 complication.</p> <p>7 Did I understand you</p> <p>8 correctly?</p> <p>9 A. A vaginal mesh exposure,</p> <p>10 yes.</p> <p>11 Q. Vaginal mesh exposure.</p> <p>12 Doctor, do different</p> <p>13 physicians, such as yourself, if you can</p> <p>14 answer, do they define that differently?</p> <p>15 You said you consider it a wound</p> <p>16 complication.</p> <p>17 Do other physicians consider</p> <p>18 it something else, to your knowledge?</p> <p>19 MR. SNELL: Objection.</p> <p>20 THE WITNESS: They might.</p> <p>21 BY MS. GAYLE:</p> <p>22 Q. I was just wondering,</p> <p>23 Doctor, why you limited, you said you</p> <p>24 considered it wound complication.</p>	<p style="text-align: right;">Page 176</p> <p>1 believe they are approximately one</p> <p>2 and-a-half millimeters. But I'd have to</p> <p>3 look at my notes to see for sure.</p> <p>4 Q. And your report talked a</p> <p>5 little bit about the pore size; is that</p> <p>6 correct?</p> <p>7 A. Yes.</p> <p>8 Q. And when you were talking</p> <p>9 about that, you were referring to the</p> <p>10 Amid article; is that correct?</p> <p>11 A. Well, that's one of the</p> <p>12 sources that I cite, yes.</p> <p>13 Q. What else -- what other</p> <p>14 sources are you citing for your</p> <p>15 discussion on pore sizes?</p> <p>16 A. Lots of articles about</p> <p>17 different mesh materials that are used.</p> <p>18 Amid doesn't specifically refer to TVT,</p> <p>19 as far as I know.</p> <p>20 So there's lots of articles</p> <p>21 that look at the composition of TVT mesh.</p> <p>22 Q. Do you know if there's an</p> <p>23 understanding about what the ideal</p> <p>24 microns might be for TVT mesh?</p>
<p style="text-align: right;">Page 175</p> <p>1 A. I just -- because there are</p> <p>2 different words.</p> <p>3 Q. And, Doctor, what is your</p> <p>4 understanding of a mesh erosion?</p> <p>5 A. So oftentimes the terms</p> <p>6 extrusion, exposure and erosion are used</p> <p>7 interchangeably. And, in fact, I do -- I</p> <p>8 find myself doing that as well.</p> <p>9 I think that for the</p> <p>10 purposes of being more specific about</p> <p>11 what we're referring to, most people say</p> <p>12 if you were going to state differences</p> <p>13 between an erosion and an exposure, an</p> <p>14 erosion refers to a visceral erosion, so</p> <p>15 the mesh going into either the urethra,</p> <p>16 the bladder or some other structure other</p> <p>17 than the vagina.</p> <p>18 Q. Doctor, we talked briefly</p> <p>19 earlier about the pore size.</p> <p>20 Do you know what the pore</p> <p>21 size is in TVT mesh?</p> <p>22 A. It depends what you're</p> <p>23 referring to as the pores. If you're</p> <p>24 talking about the largest pores, I</p>	<p style="text-align: right;">Page 177</p> <p>1 A. I think most people who work</p> <p>2 in this field consider that you want to</p> <p>3 have pores that are at least 75 microns</p> <p>4 in size, which is much, much smaller than</p> <p>5 the pore size for the TVT.</p> <p>6 And the main reason for that</p> <p>7 is to allow white blood cells, such as</p> <p>8 macrophages, to get within the spaces</p> <p>9 within the knit of the mesh.</p> <p>10 Q. And we talked earlier about</p> <p>11 the pore sizes between the two products,</p> <p>12 and I think that you said that they are</p> <p>13 the same, is that correct, between the</p> <p>14 TVT and TVT-O?</p> <p>15 A. Yes, that's my</p> <p>16 understanding.</p> <p>17 Q. When you worked with the</p> <p>18 TVT-S, your work in connection with</p> <p>19 Ethicon on that product, do you recall</p> <p>20 what the pore sizes were on that product?</p> <p>21 A. I believe it was the same,</p> <p>22 but I couldn't say for sure.</p> <p>23 Q. Do you perform, in your</p> <p>24 practice, sacrocolpopexy?</p>

<p style="text-align: right;">Page 178</p> <p>1 A. I do.</p> <p>2 Q. Do you perform it to this</p> <p>3 day?</p> <p>4 A. I do.</p> <p>5 Q. And when you perform it,</p> <p>6 what product do you use when you perform</p> <p>7 that for mesh?</p> <p>8 A. I've used three different</p> <p>9 products in the last five years. I've</p> <p>10 used Gynemesh PS. I've used Restorelle®</p> <p>11 Y mesh, which is produced by Coloplast, I</p> <p>12 believe. And I've used the Upsilon mesh,</p> <p>13 which is the -- a Boston Scientific Y</p> <p>14 mesh.</p> <p>15 Q. Do you still use all three</p> <p>16 of those products to this day?</p> <p>17 A. I have not used the</p> <p>18 Restorelle® Y mesh in the last year, I</p> <p>19 would say.</p> <p>20 Q. Do you know what the pore</p> <p>21 size is of the Gynemesh that you use for</p> <p>22 the sacrocolpopexy?</p> <p>23 A. I believe it's 2.5</p> <p>24 millimeters.</p>	<p style="text-align: right;">Page 180</p> <p>1 Q. And how do you define "low,"</p> <p>2 Doctor?</p> <p>3 A. Well, I can tell you what I</p> <p>4 consider the mesh exposure rate to be for</p> <p>5 TVT and TVT-O. And I would consider it</p> <p>6 the range of 0.5 percent to 2 percent.</p> <p>7 And I consider that to be low.</p> <p>8 Q. And is that based on what,</p> <p>9 Doctor?</p> <p>10 A. Based on my clinical</p> <p>11 experience and my reading of the</p> <p>12 literature, the scientific literature.</p> <p>13 Q. Doctor, do you believe that</p> <p>14 contraction occurs with transvaginal mesh</p> <p>15 products of the TVT or TVT-O?</p> <p>16 A. I don't believe that the</p> <p>17 mesh itself contracts. I think that the</p> <p>18 tissues that grow within the spaces</p> <p>19 within the mesh can cause some</p> <p>20 contraction of the overall implant and</p> <p>21 response to the implant.</p> <p>22 I think that for the most</p> <p>23 part, specifically with TVT and TVT-O,</p> <p>24 that it is not a -- what I would consider</p>
<p style="text-align: right;">Page 179</p> <p>1 Q. Do you believe that pore</p> <p>2 size plays a part in any way to</p> <p>3 complications?</p> <p>4 MR. SNELL: Object.</p> <p>5 MS. GAYLE: Strike that.</p> <p>6 BY MS. GAYLE:</p> <p>7 Q. Do you believe that the pore</p> <p>8 size of the TVT or the TVT-O would play a</p> <p>9 part in the role of complications in a</p> <p>10 patient?</p> <p>11 MR. SNELL: Object to form.</p> <p>12 Go ahead.</p> <p>13 THE WITNESS: I believe that</p> <p>14 the pore size of the TVT and the</p> <p>15 TVT-O is a good pore size. I</p> <p>16 believe that pore size, in</p> <p>17 general, for any mesh, can</p> <p>18 contribute to complication risk.</p> <p>19 BY MS. GAYLE:</p> <p>20 Q. Why do you think it's a good</p> <p>21 pore size?</p> <p>22 A. Because I think the risk of</p> <p>23 mesh exposure and erosion with TVT is</p> <p>24 low.</p>	<p style="text-align: right;">Page 181</p> <p>1 a pathologic contraction.</p> <p>2 Q. And what is the basis for</p> <p>3 that, Doctor?</p> <p>4 A. My basis for that is that we</p> <p>5 have a plethora of very high-quality</p> <p>6 scientific data that suggests excellent</p> <p>7 outcomes with the TVT and the TVT-O that</p> <p>8 would not exist if there was pathologic</p> <p>9 contraction.</p> <p>10 Q. You said "excellent</p> <p>11 outcomes," Doctor.</p> <p>12 Are you referring to</p> <p>13 functional outcomes or anatomic outcomes?</p> <p>14 A. I don't really think of</p> <p>15 anatomic outcomes with regards to sling</p> <p>16 procedures. That's more of an outcome</p> <p>17 that one would apply to a prolapse</p> <p>18 repair.</p> <p>19 But I am referring to both</p> <p>20 objective and subjective outcomes.</p> <p>21 Q. What do you consider a</p> <p>22 subjective outcome?</p> <p>23 A. A standing stress test,</p> <p>24 urodynamic studies, pad weight test.</p>

<p style="text-align: right;">Page 182</p> <p>1 Q. And subjective outcome?</p> <p>2 A. There are various validated</p> <p>3 instruments that can be used.</p> <p>4 Q. What do you use?</p> <p>5 A. They include the urinary</p> <p>6 distress inventory, the incontinence</p> <p>7 impact questionnaire, the Sandvik</p> <p>8 severity index score, amongst others.</p> <p>9 Q. Do you use any of those</p> <p>10 things that you just listed?</p> <p>11 A. I do. I also use the</p> <p>12 prolapse and -- well, it's called the</p> <p>13 PISQ. I believe it stands for prolapse</p> <p>14 and incontinence sexual function</p> <p>15 questionnaire.</p> <p>16 Q. Do you use that with every</p> <p>17 patient?</p> <p>18 A. I try. If they fill it out.</p> <p>19 Q. And do you know if the --</p> <p>20 you talk about the outcomes.</p> <p>21 These outcomes as they are</p> <p>22 reported in the study, do they similarly</p> <p>23 use the same things that you do?</p> <p>24 A. I'm sorry, did you say the</p>	<p style="text-align: right;">Page 184</p> <p>1 A. Yes.</p> <p>2 Q. Have you heard of the term</p> <p>3 banding?</p> <p>4 A. I have.</p> <p>5 Q. And does that term apply to</p> <p>6 the midurethral slings?</p> <p>7 MR. SNELL: Objection.</p> <p>8 BY MS. GAYLE:</p> <p>9 Q. Have you heard of that in</p> <p>10 connection with midurethral slings?</p> <p>11 A. I think I've heard it more</p> <p>12 in regards to prolapse meshes, but</p> <p>13 there's certainly some people who may use</p> <p>14 that term in regard to slings.</p> <p>15 Q. And in regards to slings,</p> <p>16 have you heard of the sling material</p> <p>17 folding or moving in place?</p> <p>18 A. I've heard it in that I've</p> <p>19 read some plaintiff expert witnesses</p> <p>20 talking about those types of outcomes. I</p> <p>21 have not heard it in the scientific</p> <p>22 literature that I've quoted in my report.</p> <p>23 Q. And have you had occasion,</p> <p>24 when you operated on the patients that</p>
<p style="text-align: right;">Page 183</p> <p>1 study?</p> <p>2 Q. So you talked about, you</p> <p>3 focus on outcomes. So outcomes in</p> <p>4 whether it's the medical literature that</p> <p>5 you review or the clinical experience</p> <p>6 that you have.</p> <p>7 So you said that you use</p> <p>8 specific objective or subjective</p> <p>9 materials with your patients, you try to,</p> <p>10 correct?</p> <p>11 A. Correct.</p> <p>12 Q. When you are looking at</p> <p>13 studies that have outcomes that you're</p> <p>14 interested in, do you know what</p> <p>15 subjective materials they might use?</p> <p>16 A. Certainly, many of the</p> <p>17 articles that look at subjective outcomes</p> <p>18 have used those same instruments. They</p> <p>19 sometimes use other ones as well.</p> <p>20 Q. Do you look at issues such</p> <p>21 as quality of life for your outcomes?</p> <p>22 A. Yes.</p> <p>23 Q. And sexual function, do you</p> <p>24 look at that also?</p>	<p style="text-align: right;">Page 185</p> <p>1 you mentioned earlier, revision</p> <p>2 surgeries, have you seen that in a</p> <p>3 patient?</p> <p>4 A. I have not seen folding.</p> <p>5 What was the other term?</p> <p>6 Q. Banding.</p> <p>7 A. Well, it would be helpful to</p> <p>8 establish what people mean by banding.</p> <p>9 My general understanding of</p> <p>10 what the general understanding of what</p> <p>11 banding is, is that the mesh becomes more</p> <p>12 narrow than it is in its natural state</p> <p>13 before it's implanted in a patient. And</p> <p>14 I think that there may have been a time</p> <p>15 or two where I've done a revision on a</p> <p>16 patient where I felt that maybe the</p> <p>17 tensioning on the sling were such that it</p> <p>18 made the mesh more banded than I would</p> <p>19 have liked to have seen.</p> <p>20 Q. And, Doctor, when you're</p> <p>21 looking at the different products that</p> <p>22 you switched from, the TVT and the TVT-O,</p> <p>23 is there anything that you see with your</p> <p>24 use of the TVT ABBREVO® or the TVT</p>

<p style="text-align: right;">Page 186</p> <p>1 EXACT® that has essentially disappeared?</p> <p>2 In other words, you have</p> <p>3 these complications with the TVT or the</p> <p>4 TVT-O, or these negative drawbacks, let's</p> <p>5 say, however you want to phrase that, and</p> <p>6 then you switched over to the other</p> <p>7 products.</p> <p>8 Did you see any benefit to</p> <p>9 doing that switch?</p> <p>10 MR. SNELL: Objection.</p> <p>11 Go ahead.</p> <p>12 THE WITNESS: I haven't done</p> <p>13 any formal study of it. I think</p> <p>14 that there is, in general, less</p> <p>15 risk of groin pain with the TVT</p> <p>16 ABBREVO® than with the TVT-O.</p> <p>17 I can't say that I've seen</p> <p>18 that clinically in my practice</p> <p>19 with a sort of real relevant</p> <p>20 finding that jumps out at me, in</p> <p>21 absence of a study.</p> <p>22 BY MS. GAYLE:</p> <p>23 Q. What about dyspareunia, have</p> <p>24 you looked at dyspareunia between</p>	<p style="text-align: right;">Page 188</p> <p>1 A. I have not personally</p> <p>2 studied that. I've read the studies</p> <p>3 looking at that, though.</p> <p>4 Q. Do you know whether or not,</p> <p>5 when the TVT or TVT-O are under load,</p> <p>6 whether or not the product would lose the</p> <p>7 effect of porosity?</p> <p>8 MR. SNELL: Object to form.</p> <p>9 Go ahead.</p> <p>10 THE WITNESS: I think under</p> <p>11 physiologic loads, when it has</p> <p>12 been studied, it has not lost</p> <p>13 that.</p> <p>14 BY MS. GAYLE:</p> <p>15 Q. Do you know when the last</p> <p>16 time, approximately, you looked at that</p> <p>17 issue in the medical literature?</p> <p>18 A. Last night.</p> <p>19 Q. Do you remember what author,</p> <p>20 or the name of the article that you</p> <p>21 reviewed?</p> <p>22 A. No.</p> <p>23 Q. When I say "effective</p> <p>24 porosity," do you understand -- what is</p>
<p style="text-align: right;">Page 187</p> <p>1 products?</p> <p>2 A. I've looked at dyspareunia</p> <p>3 between the original TVT and the TVT-O.</p> <p>4 I have not done any study of dyspareunia</p> <p>5 with EXACT® or ABBREVO®.</p> <p>6 Q. Have you seen the patient --</p> <p>7 have you seen patients in your practice</p> <p>8 with dyspareunia following a sling</p> <p>9 implant?</p> <p>10 MR. SNELL: Object to form.</p> <p>11 BY MS. GAYLE:</p> <p>12 Q. In other words, have you</p> <p>13 treated patients with dyspareunia?</p> <p>14 A. Yes.</p> <p>15 Q. Are you familiar with the</p> <p>16 term "roping" or "curling"?</p> <p>17 A. I'm mostly familiar with</p> <p>18 those terms in regards to the litigation</p> <p>19 that happened in Atlantic City that I was</p> <p>20 an expert witness for in the prolapse</p> <p>21 mesh.</p> <p>22 Q. Have you studied the TVT or</p> <p>23 the TVT under load for -- to look at the</p> <p>24 properties of those two products?</p>	<p style="text-align: right;">Page 189</p> <p>1 your understanding of that term?</p> <p>2 A. My understanding of that</p> <p>3 term is that you can have a porosity that</p> <p>4 exists prior to being implanted in a</p> <p>5 patient or prior to putting any load on</p> <p>6 that implant that then changes once a</p> <p>7 force is applied to it.</p> <p>8 Q. Do you know whether that</p> <p>9 was -- effective porosity was an idea</p> <p>10 that was developed by Muhl, M-U-H-L?</p> <p>11 A. That doesn't ring any bells.</p> <p>12 Q. And on your reliance list,</p> <p>13 Exhibit-7, do you have any articles for</p> <p>14 Dr. Klinge, K-L-I-N-G-E?</p> <p>15 A. Yes.</p> <p>16 Q. And how many do you have for</p> <p>17 him?</p> <p>18 A. For the sake of time, if you</p> <p>19 want to refer to an area where that might</p> <p>20 be, that would help. Otherwise, I can</p> <p>21 just look through it.</p> <p>22 Q. So Exhibit-6 would be the</p> <p>23 one that Butler Snow had provided to you</p> <p>24 with the general reliance list. And it's</p>

<p style="text-align: right;">Page 190</p> <p>1 alphabetical, the literature is. And 2 there's no page numbers, I'm sorry. 3 A. That's okay. 4 Six articles. 5 Q. Do you have an idea of how 6 many articles Dr. Klinge may have written 7 on the issue of porosity? 8 A. There is one in this list. 9 And I would not be surprised if he has 10 more, or she. I assume it's a he. I 11 don't like to judge. 12 Q. And, Doctor, how did you go 13 about, when you were drafting your 14 report, on selecting medical journal 15 articles that might be adverse to your 16 opinions? 17 A. I tried to use the data -- 18 or, excuse me, the articles that were of 19 the highest level of evidence. 20 I certainly am more familiar 21 with the literature in clinical outcomes 22 than I am with bench research, based on 23 the fact that I am a clinical physician, 24 and I only have so many hours in a day to</p>	<p style="text-align: right;">Page 192</p> <p>1 published in journals that I don't 2 read on a regular basis. So I 3 would always take whatever 4 articles they quoted into effect 5 when forming my opinions. 6 BY MS. GAYLE: 7 Q. And, Doctor, has any one 8 particular article stood out, in your 9 opinion, that you may have stopped to go 10 look at? 11 A. I've done it on multiple 12 ones. No one individual pops out. 13 Q. No one particular article. 14 What about, you said you've 15 done it on multiple ones, multiple 16 experts, is that what you mean? 17 A. Yes -- I'm sorry, no. 18 Multiple articles. 19 Q. Multiple articles, okay. 20 And I asked you about, did 21 any one particular article pop out at 22 you. 23 Now I'm going to ask you the 24 following question: Did any one</p>
<p style="text-align: right;">Page 191</p> <p>1 read journals. 2 But most of the really 3 important work in material science that 4 directly affects our field will be 5 published in a journal like the 6 International Urogynecology Journal, 7 which I read regularly. 8 Q. And, Doctor, when you're 9 opining as an expert in these cases, is 10 it fair to say that you would want to 11 take all information in and consider all 12 information whether it is favorable to 13 your opinions or adverse to your 14 opinions? 15 MR. SNELL: Objection. 16 Overbroad. Vague as well. 17 Go ahead. 18 THE WITNESS: Yes. Yes, I 19 do believe that. And that's where 20 it is helpful to read the reports 21 of the experts for the plaintiffs, 22 because they often include 23 articles that I wasn't necessarily 24 familiar with, because they're</p>	<p style="text-align: right;">Page 193</p> <p>1 particular expert report stand out where 2 you had to do that, look at articles that 3 they might have listed? 4 A. Well, there have been a 5 number of articles -- excuse me, expert 6 reports in cases for pelvic mesh in 7 general, for a different legal action 8 that I've been involved in, not 9 specifically for the sling report. 10 And the authors of those 11 articles, I can't recall their names 12 exactly. One of them is a doctor with a 13 Russian name, so even if it was in front 14 of me, I might have trouble pronouncing 15 it. And the other was a basic 16 researching non-clinician. 17 Q. Doctor, early on you 18 mentioned an article that you had written 19 in your CVC -- CV, sorry, about risk 20 factors in 2010. If you want to refer to 21 your CV. 22 A. Yes, I'm there now. 23 Q. And the title of that, 24 again, Doctor, that paper in 2010?</p>

<p style="text-align: right;">Page 194</p> <p>1 A. Risk Factors Leading to 2 Midurethral Sling Revision, a Multicenter 3 Case Controlled Study. 4 Q. And are those the risk 5 factors, Doctor, that we talked about 6 earlier, smoking, diabetes, obesity? 7 A. I'd have to review the paper 8 to answer that accurately. 9 Q. You don't recall? 10 A. Those probably would have 11 been involved, but I think there may have 12 been other factors as well, specifically 13 in regards to sling type, surgeon, that 14 might have added to those. 15 Q. Okay. I may just have a few 16 more questions, Doctor, and I'll be 17 finished. 18 So just going backwards just 19 a moment, we were talking about examining 20 products under load. 21 MS. GAYLE: We'll mark this 22 13. 23 - - - 24 (Whereupon, Exhibit</p>	<p style="text-align: right;">Page 196</p> <p>1 of effect of porosity last night, I 2 misstated that. I was looking at the 3 effect of load on slings. 4 Q. And do you remember what it 5 was that you were looking at, what 6 document it was? 7 A. I looked at a couple of 8 them. And they would be in my list, but 9 I can't recall exactly. 10 Q. Were they internal documents 11 or -- 12 A. I believe it was a 13 combination of internal documents and 14 some science -- you know, some 15 peer-reviewed work. 16 Q. And, Doctor, are you a 17 member of AUGS? 18 A. Yes. I'm going there 19 tomorrow. 20 MS. GAYLE: Exhibit-14. 21 - - - 22 (Whereupon, Exhibit 23 Murphy-14, AUGS, Update on Vaginal 24 Mesh for Prolapse and</p>
<p style="text-align: right;">Page 195</p> <p>1 Murphy-13, Elongation Of Textile 2 Pelvic Floor Implants Under Load 3 is Related To Complete Loss of 4 Effective Porosity, Thereby 5 Favoring Incorporation in Scar 6 Plates, Otto, was marked for 7 identification.) 8 - - - 9 BY MS. GAYLE: 10 Q. Doctor, are you familiar 11 with this particular article? 12 A. I, again, recognize the 13 senior author's name. So there's a very 14 good chance that in the course of the 15 last four years I've looked at this 16 article. But I can't say when it would 17 have been. 18 Q. And I think you said last 19 night that you had read something on the 20 effect of porosity; is that correct? 21 A. I was looking at reports of 22 the properties of sling mesh under 23 tension, not specifically -- if I said I 24 was specifically looking at complete loss</p>	<p style="text-align: right;">Page 197</p> <p>1 Incontinence, was marked for 2 identification.) 3 - - - 4 MS. GAYLE: Can you take a 5 look, I only have one extra copy, 6 before I go ahead and give it to 7 him? 8 BY MS. GAYLE: 9 Q. Doctor, my question is -- 10 you said you're a member of AUGS. 11 You said you're going 12 tomorrow, correct? 13 A. Correct. 14 Q. And from time to time do you 15 receive news updates from AUGS? 16 A. I do. 17 Q. And this one is dated 18 February 13th, 2018 a.m. And it says, 19 Tweet. 20 Do you recall receiving this 21 information from AUGS? 22 A. I think so. 23 Q. And, Doctor, on the second 24 page of this exhibit, they list several</p>

<p style="text-align: right;">Page 198</p> <p>1 dates and also governments. 2 They start out at the top of 3 the page talking about the Scottish 4 government releasing an independent 5 review of the use, safety and efficacy of 6 transvaginal mesh implants and the 7 treatment of stress urinary incontinence 8 and pelvic organ prolapse. 9 Do you see that, Doctor? 10 A. I do. 11 Q. And going down from the 12 Scottish government, they talk about the 13 UK's National Institute for Health and 14 the results that they've published in a 15 guidance document. 16 Do you see that? 17 A. Yes. 18 Q. Then they talk about the 19 Australian Therapeutic Goods 20 Administration and talking about their 21 study there with regard to pelvic organ 22 prolapse and midurethral slings. 23 And then the New Zealand 24 Ministry of Health.</p>	<p style="text-align: right;">Page 200</p> <p>1 A. So AUGS, for the benefit of 2 the jury, is the American Urogyn Society. 3 It is the largest American U.S. 4 association of people in this country, 5 doctors in this country, that study and 6 treat stress urinary incontinence and 7 pelvic organ prolapse. 8 It is where the latest 9 research is being presented in abstract 10 form. So it's important for me to go to 11 meetings like this to keep up on the 12 latest research. 13 It's also important because 14 you get face-to-face interaction with the 15 other people in this field that you can 16 talk to that otherwise would be difficult 17 to talk to because some of them are in 18 California and you're in Pennsylvania. 19 And it's an important way to 20 stay abreast of all the latest 21 developments in our field. 22 MS. GAYLE: We can break 23 now, so you all can eat. I know 24 you're starving. And then we'll</p>
<p style="text-align: right;">Page 199</p> <p>1 My question is, Doctor, for 2 any of those governments there that are 3 listed in this newsletter, did you 4 incorporate any of that information into 5 your TVT or TVT-O report? 6 MR. SNELL: Objection to 7 form. Foundation. 8 Go ahead. 9 THE WITNESS: So I think 10 most of the information that these 11 reports were based on was 12 information that's available in 13 the peer-reviewed literature. So 14 in that sense, yes. 15 BY MS. GAYLE: 16 Q. And have you read these 17 reports independently? 18 A. Some of them I may have 19 seen. I certainly have not read every 20 word of every one of them. 21 Q. And, Doctor, you said you're 22 going to AUGS tomorrow. 23 If you can so state, why are 24 you going to AUGS tomorrow?</p>	<p style="text-align: right;">Page 201</p> <p>1 come back. I may not have much 2 after we come back. 3 - - - 4 (Whereupon, a luncheon 5 recess was taken.) 6 - - - 7 BY MS. GAYLE: 8 Q. Doctor, didn't you say you 9 prepared earlier a table of contents for 10 your report? 11 A. I did. 12 MS. GAYLE: And we're going 13 to mark that as Exhibit-15. 14 - - - 15 (Whereupon, Exhibit 16 Murphy-15, Table of Contents, 17 General Report of Miles Murphy, 18 MD, MSPH, FACOG, was marked for 19 identification.) 20 - - - 21 MS. GAYLE: Just so we have 22 it in the record. 23 MR. SNELL: Did we mark 24 this?</p>

<p style="text-align: right;">Page 202</p> <p>1 MS. GAYLE: We marked a copy 2 of his report. 3 MR. SNELL: Where is your 4 report? 5 MS. GAYLE: It was 6 Exhibit -- 7 MR. SNELL: Make sure that 8 gets clipped on the front. It 9 goes along with it. 10 BY MS. GAYLE: 11 Q. Shortly before the break, we 12 were talking about porosity. 13 Have you ever provided input 14 to a mesh manufacturer on the optimal 15 porosity of a mesh device? 16 A. Not that I recall. 17 Q. Have you ever provided input 18 to a mesh manufacturer on the optimal 19 weight of the mesh device? 20 A. Not that I recall. 21 Q. With regard to the TVT, have 22 you provided any input to Ethicon on what 23 info, information, needs to be included 24 in an IFU?</p>	<p style="text-align: right;">Page 204</p> <p>1 TVT-S? 2 A. I did not draft it, no. 3 Q. Is it your opinion, Doctor, 4 that the IFU for the TVT is adequate? 5 A. Yes. 6 Q. And, Doctor, what is the 7 basis of that opinion? 8 A. My basis is that the 9 document is designed to provide, 10 obviously, the instructions for use. 11 It's supposed to inform the implanter 12 regarding risks associated with the 13 device. 14 And I think it has -- I 15 think all the iterations of it have done 16 that, done so. 17 Q. What standards, other than 18 your own personal viewpoint, what source 19 of information are you relying on to 20 claim adequacy? 21 A. I think my own personal 22 input is not just personal, but it's 23 professional. And I think that as 24 someone who has dedicated their life to</p>
<p style="text-align: right;">Page 203</p> <p>1 A. No. 2 Q. And with regard to the 3 TVT-O, have you ever provided any input 4 to Ethicon on what information should be 5 included in the TVT-O IFU? 6 A. Not that I recall. 7 Q. Have you ever drafted an IFU 8 for TVT? 9 A. No. 10 Q. Have you ever drafted an IFU 11 for TVT-O? 12 A. No. 13 Q. Have you ever drafted an IFU 14 for any mesh manufacturer? 15 A. I haven't drafted a whole 16 IFU. I think some of the validation that 17 I did for Secur would have probably 18 worked into the IFU. Similarly, some of 19 the work I did with the Prosima may have 20 had some bearing and went into the IFU. 21 But I have not specifically 22 authored IFUs for any mesh product. 23 Q. You didn't draft the 24 language for either the Prosima or the</p>	<p style="text-align: right;">Page 205</p> <p>1 pelvic reconstructive surgery, I think 2 I'm -- there's no better source of what's 3 appropriate than myself. 4 Q. And that would apply to an 5 IFU for both products? 6 A. Yes. 7 MS. GAYLE: I'll reserve the 8 balance of my questions. 9 - - - 10 EXAMINATION 11 - - - 12 BY MR. SNELL: 13 Q. Dr. Murphy, Burt Snell. 14 I'm just going to go back through a 15 couple of things I want to follow up on. 16 You were asked about the 17 structure of your report in the 18 beginning. You were asked about certain 19 summaries of conclusions, for example, at 20 Page 62 where the text is in bold. 21 Do you see that? 22 A. I do. 23 Q. Is it fair to say that the 24 entirety of your report contains your</p>

<p style="text-align: right;">Page 206</p> <p>1 opinions and not just the section you 2 bolded?</p> <p>3 A. Absolutely.</p> <p>4 Q. You were asked questions 5 about the bibliography you composed that 6 follows your report, beginning at Page 7 72.</p> <p>8 Do you recollect that topic?</p> <p>9 A. Yes.</p> <p>10 Q. And you were asked questions 11 about the original -- or general 12 materials list, and then the supplemental 13 general materials list in addition to 14 materials referenced in your report.</p> <p>15 Do you recall discussing 16 those documents?</p> <p>17 A. I do.</p> <p>18 Q. Did you review and rely upon 19 those materials identified in the 20 original general materials list and 21 supplemental general materials list in 22 formulating your opinions?</p> <p>23 A. Yes. They were a part of 24 what I relied upon.</p>	<p style="text-align: right;">Page 208</p> <p>1 BY MR. SNELL:</p> <p>2 Q. Did you assess the design 3 and the attributes and the potential 4 utility of the TVT and TVT-O devices 5 before you began using those in your 6 clinical practice?</p> <p>7 A. Certainly. You know, you 8 want to, obviously, understand the 9 devices, the procedures that you're going 10 to be doing in a patient before you do 11 them.</p> <p>12 Q. You were asked various 13 questions about your expertise -- let me 14 take you, if you will -- do you have your 15 curriculum vitae handy?</p> <p>16 A. I do. It's Exhibit-9.</p> <p>17 Q. And so plaintiffs' counsel 18 asked you about peer-reviewed literature 19 that you had published concerning the TVT 20 and TVT-O devices.</p> <p>21 Do you recollect that?</p> <p>22 A. Yes.</p> <p>23 Q. Have you also prevented -- 24 strike that.</p>
<p style="text-align: right;">Page 207</p> <p>1 Q. Is it fair to say that 2 there's quite a bit of medical literature 3 identified both in your bibliography as 4 well as in your general materials list?</p> <p>5 A. Yes.</p> <p>6 Q. And were you familiar with 7 any of that literature before becoming an 8 expert?</p> <p>9 A. Yes.</p> <p>10 Q. Did you assess and consider 11 the medical literature on the TVT and 12 TVT-O devices before becoming an expert 13 witness in this matter?</p> <p>14 A. I certainly --</p> <p>15 MS. GAYLE: Object to form.</p> <p>16 THE WITNESS: I certainly 17 had opinions regarding it, yes.</p> <p>18 BY MR. SNELL:</p> <p>19 Q. Did you assess the design 20 and the different attributes of those 21 devices before becoming an expert in this 22 litigation?</p> <p>23 MS. GAYLE: Object to form.</p> <p>24 THE WITNESS: Yes, I did.</p>	<p style="text-align: right;">Page 209</p> <p>1 Have you also presented, via 2 lecture or other means, on the TVT and 3 TVT-O devices?</p> <p>4 A. Yes, I have.</p> <p>5 Q. Have you -- let's go to 6 under book chapters. Let's me know when 7 you get to that subject on your CV.</p> <p>8 A. I'm there.</p> <p>9 Q. Do you believe you have 10 expertise in biomaterials?</p> <p>11 A. I do.</p> <p>12 Q. You have a -- you are listed 13 as an author of a book chapter titled, 14 Use of Mesh and Materials in Pelvic Floor 15 Surgery.</p> <p>16 Do you see that?</p> <p>17 A. I do.</p> <p>18 Q. Published 2009, guest 19 editor, Joseph I. Schaeffer.</p> <p>20 Do you see that?</p> <p>21 A. I do.</p> <p>22 Q. Did you assess biomaterials, 23 including the TVT and TVT-O devices, and 24 their use in stress incontinence surgery</p>

<p style="text-align: right;">Page 210</p> <p>1 in connection with your evaluation and 2 writing of that book chapter on mesh and 3 materials in pelvic floor surgery? 4 A. Yes. That chapter included 5 a review of materials, their use in 6 pelvic surgery, including suture, 7 biologic grafts, xenografts, cadaveric 8 grafts and synthetic grafts, particularly 9 the synthetic grafts used in TVT and 10 TVT-O. 11 Q. And at that time, were you 12 already familiar with the macroporous 13 nature of the TVT slings? 14 A. Yes. 15 Q. Is that something you had 16 studied in connection with your earlier 17 education, training and clinical 18 practice? 19 MS. GAYLE: Object to form. 20 THE WITNESS: Yes. 21 BY MR. SNELL: 22 Q. You told us that you had 23 performed professional education on the 24 TVT and TVT-O devices.</p>	<p style="text-align: right;">Page 212</p> <p>1 professional education? 2 A. Yeah. One of the benefits 3 over traditional repairs like the Burch 4 procedure is the less invasive nature of 5 the TVT. And that's certainly something 6 that we would have -- or I would have 7 lectured on during this time. 8 Q. And did you also lecture on 9 the devices' IFUs and the procedural 10 steps? 11 MS. GAYLE: Object to form. 12 THE WITNESS: Yes, 13 absolutely. And that was also 14 part of what happened in the 15 cadaver labs as well, is going 16 through the particular steps 17 involved with the procedure. 18 BY MR. SNELL: 19 Q. Did you lecture and discuss, 20 during your role as teaching professional 21 education, about potential complications 22 and their management? 23 A. Yes. Certainly that was 24 part of it.</p>
<p style="text-align: right;">Page 211</p> <p>1 Do you recollect that 2 subject? 3 A. Yes, I did. Yes, I do. 4 Q. In teaching professional 5 education and the different types of 6 courses, did you teach and discuss with 7 the participants the different aspects of 8 the devices? 9 A. Yes. 10 Q. Including the mesh, the 11 trocars or guides, things of that nature? 12 A. Yes. 13 Q. Did you discuss the overall 14 design of the device and how it should 15 and could be employed and the benefits 16 that could flow from that device design? 17 MS. GAYLE: Object to form. 18 THE WITNESS: Yes. Those 19 are the types of things that you 20 go over in these lectures. 21 BY MR. SNELL: 22 Q. Did you discuss the 23 invasiveness, or lack thereof, for the 24 TVT and TVT-O devices during your</p>	<p style="text-align: right;">Page 213</p> <p>1 Q. Before becoming an expert in 2 this litigation and knowing that you 3 taught professional education on TVT and 4 TVT-O, were you familiar with and had you 5 used slide decks on the TVT and TVT-O 6 device? 7 MS. GAYLE: Object to form. 8 THE WITNESS: Yes, I did. 9 BY MR. SNELL: 10 Q. And when I say "slide 11 decks," I mean the Ethicon master slide 12 decks on those devices. 13 A. Yes. So I would have had 14 lectures where the slides were sort of 15 prepared and approved by Ethicon. But 16 then I've also lectured, even prior to 17 becoming an attending physician, 18 regarding slings such as the TVT. 19 Q. And is that, based in part, 20 due to the fact that if one is looking at 21 the retropubic slings, the midurethral 22 slings, the TVT Ethicon device composes 23 the vast bulk of the medical literature? 24 MS. GAYLE: Object to form.</p>

<p style="text-align: right;">Page 214</p> <p>1 THE WITNESS: Yes.</p> <p>2 BY MR. SNELL:</p> <p>3 Q. Can the same be said for the</p> <p>4 TVT-O?</p> <p>5 A. Yes. Of all the obturator</p> <p>6 slings that have been studied, I think</p> <p>7 it's safe to say that TVT-O is the most</p> <p>8 studied procedure.</p> <p>9 Q. You talked about your work</p> <p>10 in the product and design validation with</p> <p>11 TVT-Secur.</p> <p>12 Do you recall that?</p> <p>13 A. Yes.</p> <p>14 Q. Is that evidence of your</p> <p>15 design experience and expertise that you</p> <p>16 have?</p> <p>17 MS. GAYLE: Object to form.</p> <p>18 THE WITNESS: I believe that</p> <p>19 that's part of it.</p> <p>20 BY MR. SNELL:</p> <p>21 Q. Have you looked at, for</p> <p>22 example, design validation on these</p> <p>23 materials -- strike that.</p> <p>24 Have you looked at design</p>	<p style="text-align: right;">Page 216</p> <p>1 study the device -- the design of the</p> <p>2 device and the outcomes that it produced?</p> <p>3 MS. GAYLE: Object to form.</p> <p>4 THE WITNESS: We did.</p> <p>5 BY MR. SNELL:</p> <p>6 Q. Before becoming an expert in</p> <p>7 this litigation, were you also familiar</p> <p>8 with the IFUs and monographs pertinent to</p> <p>9 the TVT-O device, for example?</p> <p>10 A. Yes.</p> <p>11 Q. And have you taught other</p> <p>12 residents, fellows or other professionals</p> <p>13 on those IFUs?</p> <p>14 A. Yes.</p> <p>15 Q. Did you also testify you had</p> <p>16 design experience with regard to your</p> <p>17 work with AMS when you were asked to</p> <p>18 assist or evaluate the creation of a new</p> <p>19 medical device?</p> <p>20 MS. GAYLE: Object to form.</p> <p>21 THE WITNESS: Yes.</p> <p>22 BY MR. SNELL:</p> <p>23 Q. And, in general, can you</p> <p>24 tell us, did that focus on the design of</p>
<p style="text-align: right;">Page 215</p> <p>1 validation, for example, for the TVT-O</p> <p>2 device?</p> <p>3 A. Yes. And the TVT-Secur.</p> <p>4 Q. You brought and produced a</p> <p>5 clinical study agreement regarding the</p> <p>6 Prosima device.</p> <p>7 Do you recall that?</p> <p>8 A. Yes.</p> <p>9 Q. Did you evaluate the design</p> <p>10 of that device before employing it?</p> <p>11 A. Absolutely.</p> <p>12 Q. Did you discuss with Ethicon</p> <p>13 internal personnel, be it medical</p> <p>14 directors, clinical engineers or</p> <p>15 otherwise, the different attributes of</p> <p>16 that medical device?</p> <p>17 A. Yes. And that included</p> <p>18 things like the stent that is placed in</p> <p>19 the vagina after placing the graft, the</p> <p>20 balloon that's used, the instruments that</p> <p>21 are used to insert the implant into the</p> <p>22 body, in addition to the actual implant</p> <p>23 itself.</p> <p>24 Q. And did you all formally</p>	<p style="text-align: right;">Page 217</p> <p>1 this new device?</p> <p>2 A. Very specifically, both</p> <p>3 tools that could be used to assist in</p> <p>4 completing the procedure, as well as the</p> <p>5 materials that would be implanted as</p> <p>6 well.</p> <p>7 Q. Did you utilize your</p> <p>8 knowledge with regard to the state of the</p> <p>9 art with regard to female pelvic medicine</p> <p>10 when you provided that consulting?</p> <p>11 A. Absolutely. So I trained,</p> <p>12 both in my residency and fellowship, on</p> <p>13 both transvaginal surgery with and</p> <p>14 without materials and transabdominal</p> <p>15 surgery with and without materials.</p> <p>16 And one of the unique things</p> <p>17 about this new potential design is that</p> <p>18 it would be a combination of techniques</p> <p>19 that had been used from abdominal and a</p> <p>20 vaginal approach.</p> <p>21 So my expertise in both was</p> <p>22 critical in being able to provide good</p> <p>23 consultation for that company.</p> <p>24 Q. And did you utilize your</p>

<p style="text-align: right;">Page 218</p> <p>1 understanding of female pelvic medicine 2 and relate it to the design of that 3 device for the potential utility, risk or 4 benefits that that device could 5 potentially produce? 6 A. Yes. 7 Q. Did you consult with that 8 company with regard to the potential risk 9 of such an approach or a device? 10 A. Absolutely. And, in fact, 11 we had cadaver models that looked 12 specifically at potential risks that 13 could occur with that system. 14 Q. And that was your -- and you 15 analyzed that in connection with your 16 work as a consultant? 17 A. Yes. 18 Q. Your role on the -- strike 19 that. 20 Your role, I believe you 21 testified to, with regard to Boston 22 Scientific and being on the senior 23 advisory board to advise on different 24 types of products, do you recall that</p>	<p style="text-align: right;">Page 220</p> <p>1 report and your CV in particular, I see, 2 for example, on lectures and roles, there 3 are several presentations with regard to 4 the use of transvaginally placed mesh in 5 reconstructive surgery. 6 Do you see those 7 different -- 8 A. Yes. 9 Q. Update on the surgical 10 treatment of stress urinary incontinence, 11 grand rounds here in Philadelphia at 12 Albert Einstein. 13 Do you see that? 14 A. Yes. 15 Q. Would it be fair to say that 16 you -- let me back up one more. 17 If we keep taking it back to 18 2006 and 2005, where you presented on 19 surgery for incontinence, as well as 20 advances in pelvic surgery -- do you see 21 that? 22 A. Yes. 23 Q. Back in 2002, 2003, you 24 presented on surgical management of</p>
<p style="text-align: right;">Page 219</p> <p>1 subject? 2 A. Yes. 3 Q. Did that pertain to the 4 products' utility in the marketplace? 5 A. Sure, yes. 6 Q. Would that have concerned 7 potential risk or safety issues with 8 products? 9 A. Yes. Both mesh products, 10 non-mesh products, abdominal products, 11 vaginal products. 12 Q. Would that work and your 13 consulting with Boston Scientific pertain 14 to, for any medical devices, their design 15 or the outcomes that could flow from a 16 design of a device? 17 A. Certainly, yes. 18 Q. And is this work that you 19 did that is independent and separate from 20 this expert work in the litigation? 21 A. Yes. I have not done any 22 expert work from litigation with Boston 23 Scientific. 24 Q. Turning back to your expert</p>	<p style="text-align: right;">Page 221</p> <p>1 stress urinary incontinence, what the 2 primary care provider should know. 3 A. Yes, I did. 4 Q. In general, did those 5 presentations concern data and/or the TVT 6 or TVT-O devices? 7 A. Yes. 8 Q. Is it fair to say that long 9 before becoming an expert in this 10 litigation, you were evaluating and 11 presenting and teaching and publishing on 12 these devices, namely TVT and TVT-O? 13 MS. GAYLE: Object to form. 14 THE WITNESS: Yes. 15 BY MR. SNELL: 16 Q. The book chapter from 2007, 17 Surgery for Incontinence and Pelvic 18 Dysfunction, you are one of the authors 19 to that chapter; is that correct? 20 A. Yes. 21 Q. With regard to the 22 peer-reviewed articles, you identified 23 some of them, are there others on your 24 materials list that -- strike that.</p>

<p style="text-align: right;">Page 222</p> <p>1 Are there other</p> <p>2 peer-reviewed articles in your CV that</p> <p>3 also have relevance or pertain to the TVT</p> <p>4 or TVT-O device?</p> <p>5 A. Yes, I would say so.</p> <p>6 Q. I guess when you were asked</p> <p>7 the question, you focused on the ones</p> <p>8 where the specific focus of the study was</p> <p>9 on that device.</p> <p>10 My question to you is, for</p> <p>11 example, a paper you did in 2003</p> <p>12 regarding bacterial colony counts during</p> <p>13 surgery, vaginal surgery, did that</p> <p>14 concern, in part, the TVT device?</p> <p>15 A. Sure. The large proportion</p> <p>16 of the cases that were included in that</p> <p>17 study involved surgeries where TVT slings</p> <p>18 were implanted.</p> <p>19 Q. And did you report on the</p> <p>20 risk of infection in that study?</p> <p>21 A. We did.</p> <p>22 Q. And was there any infection</p> <p>23 seen with the TVT devices in your study</p> <p>24 back in 2003?</p>	<p style="text-align: right;">Page 224</p> <p>1 separate from your work here as an</p> <p>2 expert?</p> <p>3 A. Yes. That was done before I</p> <p>4 became an expert.</p> <p>5 Q. In connection with your work</p> <p>6 as an expert, did you review or re-review</p> <p>7 the medical literature and any company</p> <p>8 documents to further bolster your</p> <p>9 knowledge about device design?</p> <p>10 MS. GAYLE: Object to form.</p> <p>11 THE WITNESS: Yes. I</p> <p>12 specifically looked at documents</p> <p>13 both on the TVT and the TVT-O.</p> <p>14 BY MR. SNELL:</p> <p>15 Q. Is it fair to say that you</p> <p>16 have participated and evaluated and</p> <p>17 studied transvaginal application of mesh</p> <p>18 in both the stress incontinence and</p> <p>19 prolapse applications in numerous</p> <p>20 different studies?</p> <p>21 A. Yes, I have.</p> <p>22 Q. And have you presented and</p> <p>23 published on those topics?</p> <p>24 A. Yes. I presented at</p>
<p style="text-align: right;">Page 223</p> <p>1 A. There were none.</p> <p>2 Q. Now, you have numerous</p> <p>3 abstracts also listed in your CV; is that</p> <p>4 fair?</p> <p>5 A. Yes.</p> <p>6 Q. And do any of those pertain</p> <p>7 to TVT, TVT-O and, in particular,</p> <p>8 retropubic and midurethral -- retropubic</p> <p>9 and transobturator midurethral slings?</p> <p>10 A. Certainly many of them are</p> <p>11 related. And some of them are very</p> <p>12 specifically about those types of slings.</p> <p>13 Q. And you were earlier</p> <p>14 discussing your work on product</p> <p>15 validation, for example, with regard to</p> <p>16 the TVT-Secur.</p> <p>17 And I believe you testified</p> <p>18 that in that work, and in other work, you</p> <p>19 had looked at a device, as well as the</p> <p>20 IFU, to determine whether they are</p> <p>21 adequate and safe?</p> <p>22 A. That's right.</p> <p>23 Q. And is that work and</p> <p>24 knowledge and experience you have</p>	<p style="text-align: right;">Page 225</p> <p>1 national and international meetings, and</p> <p>2 published in peer-reviewed journals on</p> <p>3 both those topics.</p> <p>4 Q. You were asked about bench</p> <p>5 research.</p> <p>6 Did you review bench</p> <p>7 research pertaining to the TVT and TVT-O?</p> <p>8 A. I did.</p> <p>9 Q. In your CV -- strike that.</p> <p>10 In your materials list, the</p> <p>11 original, there is a paper in the</p> <p>12 International Urogynecology Journal,</p> <p>13 2008, by Moalli titled, Tensile</p> <p>14 Properties of Five Commonly Used</p> <p>15 Midurethral Slings Relative to the TVT.</p> <p>16 Do you see that?</p> <p>17 A. I do.</p> <p>18 Q. Is that an article or a</p> <p>19 study you had reviewed and considered?</p> <p>20 A. Yes.</p> <p>21 Q. The International</p> <p>22 Urogynecology Journal, is that an</p> <p>23 important journal in your field?</p> <p>24 A. Yes, it is.</p>

<p style="text-align: right;">Page 226</p> <p>1 Q. When you made a statement 2 that, with regard to the attributes of 3 the mesh, pore size, things like that, if 4 it was an important paper in your field, 5 you would expect it to be published in 6 one of the higher-level journals; is that 7 a fair summary of your testimony? 8 MS. GAYLE: Object to form. 9 THE WITNESS: I would 10 certainly think that any type of 11 research that was going to impact 12 the clinical care of patients 13 would be published in such a 14 journal. 15 BY MR. SNELL: 16 Q. And given that this paper 17 was from 2008, would you have reviewed 18 this paper in the International Urogyn 19 Journal back when it was 20 contemporaneously published in that year? 21 A. Yes. 22 Q. Were you regularly reading 23 the IUJ back in 2008? 24 A. I've been regularly reading</p>	<p style="text-align: right;">Page 228</p> <p>1 mechanical and laser cutting of mesh; is 2 that fair? 3 A. Yes, I did. 4 MR. SNELL: I'll just give 5 you -- 6 BY MR. SNELL: 7 Q. You also testified that you 8 had reviewed, in formulating your 9 opinions, different clinical expert 10 reports by people at Ethicon; is that 11 fair? 12 A. Yes, I did. 13 Q. So I've handed you the 14 clinical expert report on the laser-cut 15 mesh utilized, as you testified, in the 16 TVT and TVT-O devices. 17 Is this a document you would 18 have reviewed and considered when you 19 were formulating your opinions that you 20 referenced to plaintiffs' counsel in your 21 answers? 22 MS. GAYLE: Object to form. 23 THE WITNESS: Yes, it is. 24 BY MR. SNELL:</p>
<p style="text-align: right;">Page 227</p> <p>1 it since essentially 2002 to this day. 2 Q. And in connection with your 3 use of the TVT and TVT-O devices, did you 4 analyze the pore size to determine 5 whether it was state of the art? 6 MS. GAYLE: Object to form. 7 THE WITNESS: Yes. I think 8 it is. 9 BY MR. SNELL: 10 Q. Did you assess whether it 11 was macroporous or microporous before you 12 utilized the device? 13 A. So, yes. Prior to ever 14 utilizing it, I knew it was a macroporous 15 monofilament polypropylene mesh. It's 16 commonly referred to as a Type I mesh. 17 Q. You mentioned that you had 18 looked at various company documents on 19 bench research and properties of the 20 mesh. 21 Do you recall that? 22 A. Yes. 23 Q. And you discussed looking at 24 different documents pertaining to the</p>	<p style="text-align: right;">Page 229</p> <p>1 Q. This memo from 2006 -- 2 MR. SNELL: Let's go ahead 3 and -- so we will mark the CER as 4 Exhibit-16. 5 - - - 6 (Whereupon, Exhibit 7 Murphy-16, Clinical Expert Report, 8 Laser Cut Mesh, was marked for 9 identification.) 10 - - - 11 MR. SNELL: I'm going to 12 hand you Exhibit-17. This is a 13 memo. 14 - - - 15 (Whereupon, Exhibit 16 Murphy-17, 3/6/06 Letter from Gene 17 Kammerer to Dr. Marty Weisberg, 18 was marked for identification.) 19 - - - 20 BY MR. SNELL: 21 Q. Can you tell us, is this one 22 of the company documents you had talked 23 about that you had reviewed and 24 considered on the subject of the TVT mesh</p>

<p style="text-align: right;">Page 230</p> <p>1 and bench research and the laser versus 2 mechanical cutting? 3 A. Yes, it is. 4 Q. Did you see, in your 5 analysis and review of all the reliable 6 information and data, any clinical 7 significant difference between laser 8 cutting and mechanical cutting the edges 9 of the TVT slings? 10 MS. GAYLE: Object to form. 11 THE WITNESS: So I reviewed 12 both, you know, internal 13 documents, which basically 14 included that, and I agreed with 15 those conclusions. 16 In addition, I looked at 17 lots and lots of other 18 peer-reviewed medical studies that 19 do not demonstrate any clinical 20 significance. 21 BY MR. SNELL: 22 Q. You were asked about 23 degradation. 24 Have you found any reliable,</p>	<p style="text-align: right;">Page 232</p> <p>1 A. Yes. So much so that I find 2 it very hard that there would be a 3 hypothetical situation that would come 4 out in the process of this litigation 5 that would change that. 6 Q. You mentioned several pages 7 of your expert report that concerns 8 long-term study and long-term analysis of 9 the TVT and TVT-O devices. 10 Do you remember covering 11 that subject? 12 A. I do. 13 Q. At Page 68, there is a 14 Tommaselli systematic review. 15 I don't remember you 16 referencing Page 68 of your expert 17 report. Just to save us some time -- or 18 if you're able to get to it. 19 A. I'm on Page 68. 20 Q. Okay. At the bottom, you 21 talk about Thomaselli and their 22 publishing of medium- and long-term 23 outcomes. 24 Do you see that?</p>
<p style="text-align: right;">Page 231</p> <p>1 high-level scientific evidence that 2 degradation of the TVT slings occurs? 3 A. No, I have not. 4 Q. You were asked, if I recall, 5 some hypotheticals about if there was 6 reliable data that was sound that you 7 found important, and all these other 8 caveats, would that be important to you. 9 Do you recall, in general, 10 getting those types of hypothetical 11 questions? 12 MS. GAYLE: Object to form. 13 THE WITNESS: Yes, I do. 14 BY MR. SNELL: 15 Q. Do you recall my objections 16 to those questions? 17 A. I do. 18 MS. GAYLE: Object to form. 19 BY MR. SNELL: 20 Q. My question to you is this: 21 Have you -- do you believe that you've 22 done a thorough evaluation of what is the 23 reliable sound scientific evidence with 24 regard to the TVT and TVT-O devices?</p>	<p style="text-align: right;">Page 233</p> <p>1 A. I do. 2 Q. Did that dataset concern the 3 TVT and TVT-O devices? 4 A. So this was a systematic 5 review of medium- and long-term outcomes 6 of midurethral slings for SUI. So it 7 included a lot of different companies' 8 products. But by far, the vast majority 9 of the studies were conducted using TVT 10 or TVT-O. 11 Q. And do you recall, in 12 general, that in that systematic review, 13 that there were more than 40 medium- and 14 long-term studies on the TVT and TVT-O 15 device? 16 A. That sounds about right. 17 Q. And is the systematic 18 review, the meta-analysis, where does 19 that fit on the evidence hierarchy that 20 you discussed with plaintiffs' counsel 21 that you employ during your methodology? 22 Is it at the top or the bottom? 23 A. It's extremely high. You 24 can do a systematic review of any type of</p>

<p style="text-align: right;">Page 234</p> <p>1 study. The majority of times when we do 2 a systematic review, especially if we're 3 doing meta-analysis, you're including 4 studies that are just randomized clinical 5 trials.</p> <p>6 So not only is it that 7 you're studying a high level of evidence 8 and that you're looking at randomized 9 clinical trials, but you're then 10 scientifically and systematically 11 combining the outcomes of clinical -- of 12 multiple randomized clinical trials.</p> <p>13 So it's very high on the 14 pyramid of levels of evidence.</p> <p>15 Q. Is that something you relied 16 upon in formulating your opinions about 17 the long-term safety, efficacy, 18 durability of the TVT and TVT-O devices?</p> <p>19 A. Yes, it is.</p> <p>20 Q. Is that one of the 21 high-level reliable data sources that you 22 rely upon with your methodology when you 23 testified that, in your review of the 24 long-term data, the outcomes seen with</p>	<p style="text-align: right;">Page 236</p> <p>1 Do you recollect that 2 subject?</p> <p>3 A. Yes.</p> <p>4 Q. And is that consistent with 5 your view that the TVT and TVT-O 6 midurethral slings are safe?</p> <p>7 MS. GAYLE: Object to form.</p> <p>8 THE WITNESS: Absolutely.</p> <p>9 BY MR. SNELL:</p> <p>10 Q. You were asked questions -- 11 even though this wasn't really supposed 12 to be a TVT EXACT® or ABBREVO® 13 deposition, do you recall being asked 14 several questions about those devices?</p> <p>15 A. Yes.</p> <p>16 Q. And your report pertaining 17 to those devices?</p> <p>18 A. Yes.</p> <p>19 Q. Do you believe that the TVT 20 ABBREVO® is safer than the TVT-O?</p> <p>21 A. I do not.</p> <p>22 Q. Do you believe that the TVT 23 EXACT® is safer than the TVT?</p> <p>24 A. No, I do not.</p>
<p style="text-align: right;">Page 235</p> <p>1 TVT and TVT-O are inconsistent with 2 degradation?</p> <p>3 A. Yes.</p> <p>4 Q. You were asked about various 5 other attributes of the mesh, 6 particularly let's call it the weight of 7 the mesh and the pore size with TVT.</p> <p>8 My question to you is this: 9 Is there any high-level reliable evidence 10 that shows that the mesh used in TVT and 11 TVT-O is anything other than safe and 12 superior --</p> <p>13 MS. GAYLE: Object to form.</p> <p>14 BY MR. SNELL:</p> <p>15 Q. -- to other forms of mesh?</p> <p>16 MS. GAYLE: Object to form.</p> <p>17 THE WITNESS: There is not.</p> <p>18 BY MR. SNELL:</p> <p>19 Q. You reference in your expert 20 report the Ogah Cochrane review and the 21 finding that the bottom-up retropubic 22 slings, particularly TVT, had better 23 efficacy, lower exposure than the 24 top-to-bottom retropubic slings.</p>	<p style="text-align: right;">Page 237</p> <p>1 Q. In your report at Page 71, 2 you state that, Overall the TVT ABBREVO® 3 system demonstrates comparable outcomes 4 to the original TVT-O, with TVT ABBREVO® 5 system having less immediate short-term 6 pain in some studies.</p> <p>7 Did I read that correctly?</p> <p>8 A. You did.</p> <p>9 Q. Is that your overall 10 assessment and opinion with regard to the 11 comparison between the TVT-O device and 12 the TVT ABBREVO®?</p> <p>13 A. Yes, it is.</p> <p>14 Q. And in your analysis and 15 synthesis of the TVT-O versus the TVT 16 ABBREVO® data, have you seen any 17 reliable high-level evidence that there 18 is a statistically significant difference 19 for mesh exposure between those two 20 devices?</p> <p>21 A. No, there is not.</p> <p>22 Q. And is that consistent with 23 your opinion that there is no clinical 24 significant difference in mechanical</p>

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1 versus laser cut?

2 A. That's part of it for sure,

3 yes.

4 Q. Same thing, in your

5 assessment of the TVT EXACT® device,

6 have you seen that it has statistically

7 significant lower mesh exposure rates

8 than the original TVT?

9 A. No, there's no evidence to

10 suggest that.

11 Q. Is that supportive or not of

12 your opinion that there is no clinical

13 difference between mechanical- and

14 laser-cut TVT mesh?

15 A. Yes, that's supportive of

16 that.

17 Q. Do you recall being asked,

18 in general, questions about Professor

19 Ulmsten and his role as the inventor of

20 the TVT?

21 A. Yes.

22 Q. And I believe you testified

23 to plaintiffs' counsel you were aware of

24 him receiving royalties on the TVT; is

Page 239

1 that correct, or not?

2 A. That's correct.

3 Q. And is that something you

4 would have known of before being an

5 expert in this litigation, or not?

6 A. Sure. Most people don't do

7 work for -- most physicians don't do work

8 for companies, medical device companies,

9 for free.

10 Q. You were asked about

11 Professor Ulmsten and this issue of bias

12 and studies and peer review.

13 Do you recall, in general,

14 that subject?

15 A. I do.

16 Q. I believe you testified that

17 it's good to have more information on

18 bias.

19 Do you recall that?

20 A. Yes.

21 Q. Did you also testify that

22 what is expected in 2018 is not the same

23 as 1998?

24 A. Yes. I think that's safe to

Page 240

1 say.

2 Q. During the early 2000s and

3 the late 1990s, when TVT was introduced,

4 were you following the literature and/or

5 attending conferences in the field of

6 stress urinary incontinence surgery?

7 A. I was.

8 Q. And was Dr. Ulmsten and the

9 TVT-O a topic of conversation at that

10 time, at that level, the professional

11 pelvic surgeon level?

12 MS. GAYLE: Object to the

13 form.

14 THE WITNESS: Yes, it was.

15 BY MR. SNELL:

16 Q. For example, in these

17 sessions that you would go to, like you

18 said you're going to the AUGS studies

19 scientific session very soon; is that

20 correct?

21 A. Yes.

22 Q. Were those types of sessions

23 held concerning TVT at the international

24 level, like the International

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1 Urogynecological Association and the

2 International Continental Society level?

3 MS. GAYLE: Object to the

4 form.

5 THE WITNESS: Yes.

6 BY MR. SNELL:

7 Q. Was it any secret -- strike

8 that.

9 You're aware that Ulf

10 Ulmsten passed away a while ago?

11 A. A few years ago, yes.

12 Q. And are you aware of whether

13 or not there is an Ulmsten award

14 pertinent to his work in the development

15 and design of the TVT device?

16 A. Yes. There's an Ulmsten

17 award that's awarded at the International

18 Urogyn Association meeting.

19 Q. Was it any secret, as far as

20 you're aware, that Ulmsten was the

21 inventor of TVT back in the 2000s?

22 A. No, it was not a secret. It

23 was well known.

24 Q. So would you need to have --

<p style="text-align: right;">Page 242</p> <p>1 focusing on that, would you need to have 2 more information on Dr. Ulmsten and his 3 role in order to make an assessment as to 4 the validity of his data? 5 MS. GAYLE: Object to form. 6 THE WITNESS: No. I think 7 anybody that was in the field and 8 was studying, reading about new 9 developments in the field, knew 10 that Ulf Ulmsten was the creator 11 of the TVT and knew that he had 12 worked specifically with Gynecare 13 in bringing that from a sort of 14 prototype to a marketed device. 15 And that he -- anybody would 16 have reasonably assumed that he 17 was being compensated for that 18 work. 19 BY MR. SNELL: 20 Q. And has Dr. Ulmsten and his 21 data been -- have the results been 22 essentially replicated, based on your 23 analysis of the overall literature? 24 A. Hundreds of times.</p>	<p style="text-align: right;">Page 244</p> <p>1 Q. And those are the 2 non-Ethicon transobturator sling; is that 3 correct? 4 A. That's correct. Ethicon 5 does not market an outside-in obturator 6 sling. 7 Q. Based on your analysis and 8 the highest level of evidence and the 9 most reliable evidence, where does the 10 risk of mesh exposure and vaginal injury 11 with TVT and TVT-O compare to the 12 outside-in transobturator slings? 13 A. So the risk of exposure 14 appears to be higher in the outside-in 15 rather than the inside-out technique, 16 based on meta-analysis. 17 Q. You were asked a question 18 about Exhibit-19, the paper by Otto, 19 O-T-T-O, The Effect of Porosity? 20 A. Yes, I have it here. It 21 says 13. 22 Q. I'm sorry, 13. Thank you 23 for that clarification. 24 Was that a study about the</p>
<p style="text-align: right;">Page 243</p> <p>1 Q. You were asked, I believe, 2 about the TVT and TVT-O and TVT ABBREVO® 3 devices and, in particular, mesh 4 exposure. 5 Let me ask you this, just so 6 we're clear: Do you believe, based on 7 the reliable data and evidence, 8 high-level evidence, that there is a 9 significant difference between the mesh 10 exposure rates with TVT and TVT-O, 11 Ethicon's devices? 12 A. Yeah. When you look 13 systematically at all the randomized 14 trials, comparator trials in totality, 15 there's no evidence that the risk of mesh 16 exposure is higher with one or the other. 17 Q. And I focused on the Ethicon 18 devices because in your report, do you 19 note at Page 69, for example, that with 20 regard to the outside-in 21 transobturator -- first of all, you're 22 familiar with those devices that are 23 outside-in transobturators? 24 A. I am.</p>	<p style="text-align: right;">Page 245</p> <p>1 TVT and the TVT-O devices? 2 A. No. This was a study of 3 prolapse mesh. 4 Q. And this effect of porosity, 5 is that a hypothesis or theory, or is 6 this something proven based on 7 high-level, reliable, scientific 8 evidence? 9 MS. GAYLE: Object to form. 10 THE WITNESS: I think it's 11 much more theoretical. 12 MR. SNELL: Give me a 13 second. 14 BY MR. SNELL: 15 Q. Over the past 15 years, have 16 you kept current with the state of the 17 art in the field of stress urinary 18 incontinence surgery? 19 A. Absolutely. 20 Q. Do you believe you have 21 expertise in that subject? 22 A. I sure do. 23 Q. Is that part of your 24 education, training, your subspecialty</p>

<p style="text-align: right;">Page 246</p> <p>1 board certification and your daily 2 practice? 3 A. Yes. 4 Q. Is that a basis for your 5 work and role with the various 6 professional societies you've talked 7 about with us here today? 8 A. Yes. 9 Q. In connection with your 10 knowledge of the state of the art, are 11 you also -- do you also have expertise on 12 the standard of care with regard to 13 stress urinary incontinence surgery? 14 A. Yes, I do. 15 Q. Do you have knowledge and 16 expertise with regard to the common 17 knowledge that is expected of a pelvic 18 surgeon in the last 15 years? 19 A. Yes. 20 Q. Do you have knowledge and 21 expertise as to the potential 22 complications and risks that are inherent 23 across all stress incontinence surgeries, 24 whether mesh is used or not?</p>	<p style="text-align: right;">Page 248</p> <p>1 Q. Okay. And that's what I 2 meant. I'm sorry for a bad question. 3 In connection with the 4 Prosima study, did you have interactions 5 with Ethicon personnel with regard to the 6 types of instructions that should be 7 given to clinical investigators and the 8 potential risks and complications with 9 that device? 10 MS. GAYLE: Object to form. 11 THE WITNESS: Yes. 12 BY MR. SNELL: 13 Q. Did you analyze and consider 14 the adequacy of the instructions given to 15 the clinical investigators for the 16 Prosima device in your work as a 17 consultant? 18 A. Yes. 19 Q. Did you analyze and consider 20 the adequacy of the instructions that you 21 received, as a pelvic floor surgeon and 22 clinical investigator, with regard to 23 your ability to adequately consent 24 patients into that clinical study?</p>
<p style="text-align: right;">Page 247</p> <p>1 A. I do. 2 Q. And did you utilize that 3 knowledge and experience in formulating 4 your opinions that the IFU for the TVT 5 and TVT-O devices were adequate? 6 A. Yes. 7 Q. When you were teaching 8 professional education on TVT and TVT-O 9 that included, as you said, the IFUs, the 10 procedural steps, the complications and 11 management, did you assess whether those 12 IFUs were adequate at that time? 13 A. Sure. 14 Q. Did you discuss the adequacy 15 of those IFUs with your audience over 16 time? 17 A. I think the -- I wouldn't 18 specifically hold up the document and 19 say, this is adequate. 20 Q. Right. 21 A. But I would certainly go 22 over the types of things that were listed 23 in the IFU and discuss that with the 24 audience.</p>	<p style="text-align: right;">Page 249</p> <p>1 A. Yes. 2 Q. And did you determine that 3 the IFU was adequate? 4 A. Yes. 5 Q. Did you determine that the 6 clinical instructions given to you, as an 7 investigator, and to the other 8 investigators, was adequate in your role 9 as a consultant and study participant? 10 A. Yes. I mean, obviously, 11 there was some discussion about best ways 12 to communicate things. 13 But ultimately it was 14 adequate, yes. 15 Q. And is that work you have 16 done -- had done before becoming an 17 expert in this litigation? 18 A. Yes. 19 Q. And I believe you testified 20 that you began your work or involvement 21 in the Prosima study, I don't want to 22 misstate you, but I thought you said 23 around 2007? 24 A. Yes, 2007.</p>

<p style="text-align: right;">Page 250</p> <p>1 Q. Have you reviewed literature 2 on mesh histology? 3 A. Yes, I have. 4 Q. Is that something you 5 testified to plaintiffs' counsel? 6 A. Yes. 7 Q. Based on your review of the 8 high-level, reliable, scientific 9 evidence, as you testified to with your 10 methodology, did you find any clinically 11 significant complications with any 12 fraying of the TVT slings, if that even 13 occurs? 14 A. No, I did not. 15 Q. Based on your review of the 16 high-level scientific studies, including 17 the long-term studies on the TVT and 18 TVT-O that you identified here today, do 19 those support your opinion that there is 20 not pathologic contraction with TVT and 21 TVT-O? 22 MS. GAYLE: Object to form. 23 THE WITNESS: Yes. 24 Absolutely.</p>	<p style="text-align: right;">Page 252</p> <p>1 believe in your materials list towards 2 the back there's a list of various 3 plaintiffs' experts for the wave cases. 4 Do you see that? 5 A. Yes. 6 Q. Do you believe that those 7 experts presented any high-level, 8 reliable, sound, scientific evidence, as 9 you were asked in your hypotheticals, 10 that showed that the TVT and the TVT mesh 11 and TVT-O were defective? 12 A. I did not see any high-level 13 evidence, in any of those reports, that 14 suggested to me that these materials in 15 the TVT and TVT-O were defective. 16 Q. Your overall review and 17 analysis of the data and the studies, is 18 that consistent or inconsistent with your 19 clinical experience on these devices? 20 A. The vast majority of the 21 cases, my clinical experience jives with 22 the material that I presented. 23 Q. Let me just look at one 24 thing.</p>
<p style="text-align: right;">Page 251</p> <p>1 BY MR. SNELL: 2 Q. I'm not sure if I asked 3 this. You were asked about how you went 4 about selecting and considering articles 5 and your methodology. 6 Do you recall that subject? 7 A. Yes. 8 Q. For the high-level and the 9 reliable medical literature and articles 10 that you considered, had you reviewed any 11 or many of them before your work as an 12 expert in this case? 13 MS. GAYLE: Object to form. 14 THE WITNESS: Absolutely. 15 You know, for instance, the Ward 16 Hilton study, I was present when 17 that data was presented for the 18 very first time in a U.S. 19 scientific meeting. And I would 20 have read the article when it 21 first was published. 22 BY MR. SNELL: 23 Q. In your review of the 24 plaintiffs' experts' reports -- and I</p>	<p style="text-align: right;">Page 253</p> <p>1 MR. SNELL: That's all I 2 have. Thank you. 3 MS. GAYLE: Doctor, I just 4 have two more questions for you. 5 - - - 6 EXAMINATION 7 - - - 8 BY MS. GAYLE: 9 Q. Do you have a degree in 10 materials engineering? 11 A. I do not. 12 Q. And, Doctor, earlier you 13 were asked by counsel about the mesh, and 14 you said that you knew that it was a 15 macroporous monofilament mesh before you 16 became an expert in this litigation. 17 How did you know that? What 18 was your basis for that understanding? 19 A. Reading the scientific 20 literature. 21 Q. Any specific literature, 22 Doctor? 23 A. Well, I mean, I already 24 mentioned the Amid paper. That was the</p>

<p style="text-align: right;">Page 254</p> <p>1 main paper that broke down the different 2 types. 3 But as we looked in my CV, I 4 did -- I wrote a whole chapter on 5 materials used in reconstructive pelvic 6 surgery, and I authored that before 7 becoming an expert in this litigation. 8 And that references multiple other 9 articles as well. 10 Q. Doctor, that chapter in the 11 book that you talked about, was that 12 regarding polymers used? 13 A. It included polymers. 14 Q. And I think I might have 15 asked this before, Doctor, but you don't 16 have a degree in design engineering, do 17 you? 18 MR. SNELL: Object to form. 19 Go ahead. 20 THE WITNESS: I do not have 21 a degree in that, no. 22 MS. GAYLE: No further 23 questions. 24 - - -</p>	<p style="text-align: right;">Page 256</p> <p>1 tensile properties of mesh, including 2 TVT, you testified this is something you 3 would have read at or about the time it 4 was published? 5 A. Yes. 6 Q. And looking at that paper, 7 is the TVT mesh macroporous like you 8 identified? 9 A. Yes. 10 Q. And did Dr. Moale cite to 11 and reference other studies and data, 12 including biomechanical literature from 13 Deetz, for example, mechanical properties 14 of urogynecologic implants? 15 A. Yes. That was cited in this 16 paper. 17 Q. And had you seen the 18 Deetz -- for example, the Deetz paper and 19 the graphs from it published in 20 connection with the assessment in your 21 evaluation of the laser versus mechanical 22 cut? 23 A. I have seen that, yes. 24 Q. And would you have been</p>
<p style="text-align: right;">Page 255</p> <p>1 EXAMINATION 2 - - - 3 BY MR. SNELL: 4 Q. Just a couple follow ups. 5 Doctor, with regard to the 6 questions about the degree, do you 7 believe you have expertise in 8 biomaterials? 9 A. Yes, I do. 10 Q. Have you studied and 11 evaluated and published on them and their 12 use in pelvic floor, specifically stress 13 urinary incontinence, surgery? 14 A. Yes, I have. 15 Q. Do you have expertise on 16 device design? 17 A. Absolutely. 18 Q. And have you talked about 19 the various bases and ways in the 20 consulting and investigations and 21 evaluations you've done over the past 22 decade and-a-half in that regard? 23 A. Yes. 24 Q. The Moalli paper about the</p>	<p style="text-align: right;">Page 257</p> <p>1 familiar also with the Deetz paper and 2 the properties of the TVT and other 3 stress incontinence materials as 4 published back in the 2003 to 2004 time 5 period? 6 A. Yes. 7 Q. There's a paper by Koram and 8 others. 9 Do you know who that Koram 10 is? 11 A. I do. 12 Q. Can you just tell us who 13 that is? 14 A. His name is Mickey Koram. 15 He was editor-in-chief of this journal 16 for a while. He was president of the 17 American Urogyn Society at one time. And 18 I've met him personally. 19 I also, actually, 20 interviewed at his fellowship when I was 21 interviewing for fellowships. 22 Q. And it looks like in 2003 he 23 published on complications with regard to 24 the TVT device in the Obstetrics and</p>

<p style="text-align: right;">Page 258</p> <p>1 Gynecology Journal. 2 Do you see that? 3 A. Yes. That's what's known as 4 the Green Journal. 5 Q. Is that a journal you've 6 regularly read over the course of your 7 career as well? 8 A. Certainly. 9 Q. Is that a paper, a type of 10 paper you would have been reading and 11 considering and evaluating back in 2003, 12 when it contemporaneously came out in the 13 journal you followed? 14 A. Yes. 15 Q. Do those Moalli and Deetz 16 papers support your opinions on the 17 sufficiency, adequacy and the macroporous 18 nature of the TVT mesh? 19 A. They do. 20 Q. Your professional education, 21 the teaching, slide decks and the 22 monographs, for example, were those a 23 source of information that you had with 24 regard to your determination that the TVT</p>	<p style="text-align: right;">Page 260</p> <p>1 contemporaneous with your usage years, 2 before your role as an expert here? 3 MS. GAYLE: Object to form. 4 THE WITNESS: Yes. 5 MR. SNELL: That's all I 6 have. Thank you. 7 MS. GAYLE: No more 8 questions, Doctor. Thank you for 9 your time today. 10 - - - 11 (Whereupon, the deposition 12 concluded at 3:39 p.m.) 13 - - - 14 15 16 17 18 19 20 21 22 23 24</p>
<p style="text-align: right;">Page 259</p> <p>1 mesh was macroporous? 2 A. I'm sorry, could you repeat 3 that question? 4 Q. Sure. 5 The TVT professional 6 education, the slide decks, would those 7 have also been a source of information 8 you would have considered in coming to 9 the conclusion, before being an expert 10 here, that the TVT mesh was macroporous? 11 A. Yes. 12 Q. Before and during your use 13 of the TVT device, did you hold it up and 14 analyze it and look at it, specifically 15 the mesh? 16 MS. GAYLE: Object to form. 17 THE WITNESS: Yes. 18 BY MR. SNELL: 19 Q. Were you able to look 20 through the mesh? 21 A. I was. 22 Q. Were you able to assess 23 whether it was macroporous by your own 24 visual evaluation of that product,</p>	<p style="text-align: right;">Page 261</p> <p>1 CERTIFICATE 2 3 4 I HEREBY CERTIFY that the 5 witness was duly sworn by me and that the 6 deposition is a true record of the 7 testimony given by the witness. 8 9 10 11 Amanda Maslinsky-Miller 12 Certified Realtime Reporter 13 Dated: October 12, 2018 14 15 16 17 (The foregoing certification 18 of this transcript does not apply to any 19 reproduction of the same by any means, 20 unless under the direct control and/or 21 supervision of the certifying reporter.) 22 23 24</p>

Miles Murphy, M.D.

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ACKNOWLEDGMENT OF DEPONENT

I, _____, do hereby certify that I have read the foregoing pages, 1 - 257, and that the same is a correct transcription of the answers given by me to the questions therein propounded, except for the corrections or changes in form or substance, if any, noted in the attached Errata Sheet.

MILES MURPHY, M.D. DATE

Subscribed and sworn to before me this _____ day of _____, 20____.

My commission expires: _____

Notary Public

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LAWYER'S NOTES

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